The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable LUTHER STRANGE, a Senator from the State of Alabama.

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

Let us pray.
O God, our help in ages past, our hope for years to come, throughout life’s seasons moments of decision arrive. As our lawmakers prepare to make critical decisions, give them the wisdom to choose the more challenging right that brings the greatest glory to Your Name. Supply their needs according to Your riches in glory. Purify their thoughts as they strive to do Your will. Remind them that those who are faithful with little will be faithful with much. May they seek simply to be faithful in whatever You assign their hands to do, striving to please You with their work.

We pray in Your great 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 senior assistant legislative clerk read the following letter:

To the Senate:
Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Luther Strange, a Senator from the State of Alabama, to perform the duties of the Chair.

Orrin G. Hatch, President pro tempore.

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

EXECUTIVE CALENDAR—Continued
RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MCCONNELL. Mr. President, the Senate has considered the nomination of Judge Neil Gorsuch for many weeks now. We have seen his impressive credentials. We have reviewed his incredible record. We have heard glowing praise on a nearly daily basis from colleagues and students, from judges and newspaper editors, from Democrats and Republicans.

Judge Gorsuch is independent, and he is fair. He is beyond qualified, and he will make a stellar addition to the Supreme Court.

Hardly anyone in the legal community seems to argue otherwise, and yet, our Democratic colleagues appear poised to block this incredible nominee with the first successful partisan filibuster in American history. It would be a radical move, something completely unprecedented in the history of our Senate and out of all proportion to the eminently qualified judge who is actually before us. But then again, this isn’t really about the nominee anyway. The opposition to this particular nominee is more about the man who nominated him and the party he represents than the nominee himself. It is part of a much larger story, another extreme escalation in the left’s never-ending drive to politicize the courts and the confirmation process.

It is a fight they have waged for decades with a singular aim: securing raw power, no matter the cost to country or institution. It underlies why this threatening filibuster cannot be allowed to succeed or continue—for the sake of the Senate, for the sake of the Court, and for the sake of our country. I think a look back through history will help every colleague understand why. I always had a particular interest in the history of judicial nominations. It is an interest that predates my service here as a Senator. I remember serving on the staff of a Senator on the Judiciary Committee during a time when two different judicial nominees were being considered. One, Harrold Carswell, was voted down on the Senate floor—correctly, in my view. Another, Clement Haynesworth, also failed to receive the necessary support for confirmation—but in error, I thought.

It piqued my interest on what advice and consent should mean in the Senate, and what it actually meant in practice. I would learn later that I was witnessing the nascent stirrings of what would soon become the so-called judicial wars—the left’s efforts to transform confirmations from constructive debates over qualifications into raw ideological struggles with no rules or limits.

It is a struggle that escalated in earnest when Democrats and left-wing special interests decided to wage war on President Reagan’s nominee in 1987. Robert Bork. Polite comity went out the window as Democrats launched one vicious personal attack after another—not because Bork lacked qualifications or suffered some ethical failing, but because his views were not theirs. The Washington Post described it at the
time: “It’s not just that there has been an intellectual vulgarization and personal savagery to elements of the attack, profoundly distorting the record and the nature of the man.”

As NPR would later observe, the left’s main claim was that the nominee would no longer be evaluated on their credentials but on their ideology. That observation, unfortunately, has proven correct, with Democrats raising the stakes and moving the goalposts each step of the way.

They certainly did so under the next Republican President, George H.W. Bush. We all know what happened to Clarence Thomas. If the gloves were off for Bork, the brass knuckles came out for Thomas. I saw this turning point where a judicial nominee would no longer be evaluated on their credentials but on their ideology. That observation, unfortunately, has proven correct, with Democrats raising the stakes and moving the goalposts each step of the way.

We resisted the calls for retribution even after it was fair to say anything, to whom it is fair to do anything.

By the time Bill Clinton won the Presidency, “Bork” had become a verb and “high-tech lynching” was on the lips of the Nation. Wounds were fresh and deep when this Democratic President had the chance to name two Justices of his own to the Court.

Republicans could have responded in kind to these nominees, but that is not what happened. When President Clinton nominated Ruth Bader Ginsburg, the Senate confirmed her 96 to 3. When President Clinton nominated Stephen Breyer, the Senate confirmed him 87 to 9. I, like the vast majority of Republicans, voted for both of them. We did so in full knowledge of the considerable ideological differences between these nominees and ourselves. Ginsburg, in particular, had expressed notably extreme views—even advocating for the abolition of Mother’s Day. A nominee for the Supreme Court who advocated the abolition of Mother’s Day was confirmed 96 to 3.

Could we have Borked these nominees? Could we have tried to filibuster them? Sure, but we didn’t.

We resisted the calls for retribution and did our level best to halt the Senate’s slide after the Bork and Thomas episodes. We respected the Senate’s tradition against filibustering Supreme Court nominees.

Now, that tradition was not to filibuster extended beyond just the Supreme Court. When President Clinton named two highly controversial nominees from California to the Ninth Circuit, some on my side wanted to defeat their nominations with a filibuster. The Republican leadership said: Let’s not do that. To their great credit, Majority Leader Lott and Judiciary Chairman Hatch implored our confidence not to this time. Senate Lott filed these nominations to the nomination. He, Senator Hatch, and I and a vast majority of the Republican Conference voted for cloture to give them an up-or-down vote. We didn’t do this because we supported the nominees. In fact, most of us opposed their actual confirmation, but we thought they deserved an up-or-down vote. That, after all, was the tradition of the Senate.

Given that we were in the majority and these nominations were highly controversial, our determination not to filibuster but instead advance them to an up-or-down vote was not, as you might imagine, popular with our base. But we resisted the political pressure.

But it would matter little to our Democratic friends.

Less than a year later, President Bush 43 took office. Before he had submitted a single judicial nominee, our Democratic colleagues held a retreat in Farmington, PA. There, according to participants, they determined to change the ground rules for how they would handle judicial nominees.

As the New York Times reported, Democrats apparently decided “there was no obligation to confirm someone just because they are scholarly.” Our friend the Democratic leader said at the time that what he and his colleagues were “trying to do was set the stage” for yet another escalation in the Left’s judicial wars.

Senate Democrats soon became the majority in the Senate due to the Jeffords’ party switch. To help implement the imperative from their retreat “to change the ground rules,” the current Democratic leader used his position on the Judiciary Committee to hold a hearing on whether ideology should matter in the confirmation process.

Now, it won’t surprise you that the conclusion he and his colleagues reached was that it should. So they killed a number of high-involution or via committee vote, qualified judicial nominees who did not fit their preferred ideology. I know, because I was on the committee then. Eighteen months later, our Democratic colleagues lost control of the Senate, and, therefore, control of the Judiciary Committee. Our colleague, the current Democratic leader, again took center stage.

“The New York Times noted that “over the last two years, Mr. Schumer has used almost every maneuver ever available to a Senate Judiciary Committee member to block the appointment” of the Bush administration judicial nominees. Then, in 2003, according to the New York Times, he “recommended using an extreme tactic, the filibuster,” to block them.

“Mr. Schumer,” it said, “urged Democratic colleagues in the Senate to use the tactic that some were initially reluctant to pursue, and that has rolled the Senate: a filibuster on the floor of the chamber to block votes on nominees that he and other Democrats had decided to oppose.”

It is hard to express how radical a move that was at that time because it completely changed the way the Senate had handled these nominations for our entire history. Even filing cloture on a judicial nomination had been rare before then, and actually defeating any judicial nominee by filibuster, other than the bipartisan opposition to the nomination of Abe Fortas back in 1968, in a Presidential election year was simply unheard of.

No longer.

Democrats blocked cloture 21 times on 10 different circuit court nominees, including on outstanding lawyers like Miguel Estrada, whose nomination was filibustered an incredible 7 times.

These are not inflated statistics like the supposed 78 filibusters our Democratic colleagues are now alleging occurred during the Obama administration, which include numerous instances in which the prior Democratic leader unnecessarily filed cloture petitions. No, what I am talking about are real and repeated filibusters used by Democrats to defeat nominations.

In the face of this unprecedented change in the norms and traditions of the Senate, we Republicans contemplated using the nuclear option. We decided against it. Fourteen colleagues—three of whom still serve in this body—reached an accord whereby filibusters would be overcome for 5 of the 10 nominees in question. Regrettably, Miguel Estrada was not one of them. He had withdrawn his nomination after being put through an unprecedented ordeal.

Yet, the ink was barely dry on the accord I mentioned when Senate Democrats, led, in part, by our friend the Democratic leader, again did something exceedingly rare in the nominations process; They tried to filibuster Samuel Alito’s nomination to the Supreme Court. No member of the Republican Conference, by the way, has ever voted to filibuster a Supreme Court nomination. None on this side of the aisle has ever done that.

Again, it would have been easy for Republicans to have retaliated when President Obama took office, but just like under Clinton, that is not what happened. How do you treat Obama’s lower court nominees?

At the time, our Democratic colleagues decided to “fill up the DC Circuit one way or the other,” as the Democratic leader put it. Senate Republicans had defeated the nomination of two of President Obama’s judicial nominees. At the time that they decided to employ the nuclear option and
fill up the DC Circuit. Senate Republicans had confirmed 215 Obama judges and had defeated just 2.

So our Democratic colleagues’ decision to employ the nuclear option in 2013 was not in response to rampant obstruction in the way the Washington Post, a “power play.” By the way, at the time, I don’t recall the Democratic leader or any other of our Democratic colleagues repeating the refrain: If there are not 60 votes for a nominee, you don’t change the rules; you change the nominee.

They were not saying that then.

What did they do? They changed the rules. It was a power play, but it was also something else. It was a tacit admission by our Democratic colleagues that the Senate tradition of up-or-down votes on judicial nominees that they had first upset back in 2003 by starting the practice of filibustering judicial nominees was a tradition they should have respected. Unfortunately, it took them 10 years to realize this.

And only after they captured the White House and only after Republicans also used, on a smaller scale, the tool that they, themselves, inaugurated a decade earlier.

And how did we treat President Obama’s Supreme Court nominees? Did we try to filibuster them like our Democratic colleagues tried with Justice Alito? Of course not.

When President Obama nominated Sonia Sotomayor and Elena Kagan, we treated both nominees fairly, as they would later say themselves, and we secured an up-or-down vote for both. Most Republicans had significant misgivings about these nominees. Many of us voted no on the confirmations, but we did not think it would be right to deny them up-or-down votes.

And the ranking member of the Judiciary Committee at the time, Jeff Sessions, even protested when then-Democratic Leader Reid tried to file cloture on the Kagan nomination because we were determined to prevent even the hint of a filibuster. Again, we respected the Senate’s tradition against filibustering Supreme Court nominees.

I know our friends on the Democratic side will be quick to interject with a predictable protest about last year, though they seem to forget their own position on the issue. When Justice Scalia passed away, the Senate chose to follow a standard that was first set forth by then-Senator Biden, when he was chairman of the Judiciary Committee, and then was expanded upon by the current Democratic leader, himself. The Senate exercised its constitutional advice and consent role by withholding its consent until after the election so that the next President, regardless of party, could select a nominee. It is a standard I held to even when it seemed inevitable that our next President would be Hillary Clinton. It is also a standard that President Obama’s own legal counsel admitted that Democrats would have followed themselves had the shoe been on the other foot.

The majority of the Senate expressed itself then by withholding consent.

The majority of the Senate wishes now to express itself by providing consent to the Gorsuch nomination.

The bipartisan majority that supports him cannot do so if a partisan minority filibusters. They are prepared to do so for the first time in American history, and the Democratic leader has mused openly about holding this seat vacant for an entire Presidential term.

We will not allow their latest unprecedented act on judicial nominations to take hold. This will be the first and last partisan filibuster of a Supreme Court nomination.

All of this history matters. I know the Democratic leader would rather not revisit the circumstances that brought us to this moment. I know the Democratic leader would rather not talk about it. Of course, he doesn’t want to talk about it. He and his party decided to change the ground rules for handling judicial nominations.

He and his party pioneered the practice of filibustering lower court judicial nominees. He and his party launched the partisan filibuster of a Supreme Court nominee. He and his party deployed the nuclear option in 2013.

Now they are threatening to do something else that has never been done in the history of the Senate: successfully filibuster a Supreme Court nominee on a purely partisan basis.

For what reason—because he is not qualified or because he is not fit for the job? No, it is because he was nominated by a Republican President.

This is the latest escalation in the left’s never-ending judicial war—the most audacious yet. It cannot and it will not stand.

There cannot be two sets of standards—one for the nominees of Democratic Presidents and another for the nominee of a Republican President. The Democratic leader, essentially, claimed yesterday that Democratic Presidents nominate Justices who are near the mainstream but that Republican Presidents nominate Justices who are far outside the mainstream.

In what universe are we talking about here?

I would say to my friend from New York that few outside of Manhattan or San Francisco believe that Ruth Bader Ginsburg is in the mainstream in that way. What makes this nominee so objectionable?

The question one has to ask is this: What, exactly, is so objectionable about this nominee that he should be subjected to the first partisan filibuster in U.S. history? Is he, really, not well qualified?

He attended Columbia for his bachelor’s, Harvard for law school, Oxford for his doctorate. He clerked for not one—but two—Supreme Court Justices. He has spent over 10 years on the circuit court and has heard 2,700 cases. It is clear, that he is extremely well qualified.

Do we have 9 minutes each or 8 minutes each?

Mr. GRASSLEY. Mr. President, I was going to ask unanimous consent to that extent. I guess you have already announced that it is in place; is that right?

Mr. DURBIN. Mr. President, I am not questioning what the Senator asked for.

Do we have 9 minutes each or 8 minutes each?

Mr. GRASSLEY. Mr. President, I was going to ask unanimous consent to that extent. I guess you have already announced that it is in place; is that right?

Mr. DURBIN. Mr. President, I was going to ask unanimous consent to that extent. I guess you have already announced that it is in place; is that right? I am going to add something to what the Acting President pro tempore just said, so let me start over again.

I ask unanimous consent that the time until 10:45 a.m. be equally divided between Senator Feinstein or her designee and myself or my designee and that the time from 10:45 a.m. to 11 o’clock be reserved for Senator Schumer’s leader remarks.

The ACTING PRESIDENT pro tempore.

Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I was going to ask unanimous consent to that extent. I guess you have already announced that it is in place; is that right?

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been desperately searching for a jus-
tification for their preplanned fil-
buster. Over the course of the last cou-
ple of months, they have trotted out
one excuse after another, but nothing
will stick.

They said he isn’t mainstream, but
that is not true. Everyone from Ob-
amma’s Solicitor General to Rachel
Maddow has said he is mainstream.
They said he isn’t independent, but ev-
everyone knows he is an independent
judge in his own right, and he under-
stands the role of a judge.

Then they roll out this ridiculous ar-
gent that he is for the big guy and
against the little guy. Even liberal law
professors like Noah Feldman made fun
of that attack. He called it “a truly
terrible idea.” Then they said we
should hold him responsible for the
legal positions he took on behalf of the
U.S. Government. The only problem
there is, we have had a lot of nominees
who worked for the U.S. Govern-
ment. They worked for it; the govern-
ment was their client. The other side
certainly didn’t want to hold Justice
Kagan responsible for taking the truly
extreme pro-life position. Solicitor
General that the U.S. Government was
constitutionally permitted to ban pam-
phlets. So that argument fell flat as
well.

Then, of course, after they ran out of
substantive arguments against the
judge and his record, they resorted to
attacks on his supporters or the Presi-
dent who nominated him or the selec-
tion process, anything—anything—to
distract from the judge and the stellar
record he has.

They trotted out this absurd claim
that we should reject the judge not be-
cause of some opinion he has written
but because those who support his
nomination have the gall to actually
speak out and make their voices heard,
except they forgot to check with their
own supporters first to make sure none
of them are spending so-called dark
money. Of course, they are spending
money on advocacy, just like the
law permits and the Constitution pro-
tects under the First Amendment.

As we all know, issue advocacy dur-
ing Supreme Court nominations is ab-
solutely nothing new. Those who are
complaining about issue advocacy
today don’t seem to remember the TV
ads the far left ran attacking Judge
Bork in 1987. I remember those ads. I
remember the ads the left ran against
Justice Thomas as well. Of course, out-
side groups on the left have attacked
every Republican nominee since.

So expressing selective outrage over
issue advocacy doesn’t advance their
case either, but they still keep it up.

Finally, let me make this point we have
heard repeated most often over the last
24 hours is that Candidate Trump
“outsourced” his selection process to
conservative groups. I must say, I find
that argument the oddest of all. It is
the kind of thing Justice Scalia would
call “pure applesauce.”

The President didn’t outsource the
selection process to conservative
groups. He made his list public for the
entire country to review during the
campaign—the first President to do
that. If anything, he outsourced the se-
lection process to whom? The voters—
the American people.

So what is new? You are out of subst-
stantive arguments from the other
side. Even shots fired at the judge’s
supporters somehow boomerang back
and hit your own advocacy groups. We
have seen all of this before. I have been
through a few of these debates over the
last few years. When I occupied the
Oval Office, the nominees may change,
but the attacks remain the same.

You will hear today the same poll-
tested catch phrases we have all heard
time and again. You will hear words
and phrases like “outside the main-
stream,” “far right,” and “extreme.”
Invariably, these are words the left
tries to pin on every nominee of a Re-
publican President and the people he
submits to the Senate. With each new
date on the left, the attacks seem to be
the very same. The nomi-
nation process, it seems, is a desper-
ate attempt to retell the same old pre-
ordained narrative.

As I have said, those of us who have
been through a few of these episodes
have heard it all before, and we are
going to hear it in the next few few
hours again, but this time something is
very different. This time, they intend to
use the same old preordained narrative
to justify another partisan filibuster
in the 220-year history of the United
States. Of course, this result was pre-
ordained because as the minority lead-
er said weeks before the President was
even sworn into office, “it’s hard for
me to imagine a nominee that Donald
Trump would choose that would get
Republican support that we [Demo-
crats] could support.”

You have already committed to the
far left that you will launch the first partisan filibuster in the
tory of the United States of America,
never—underline the word “never”—
that they came up with the name Neil
Gorsuch. That is a fact.

When we look at the history that has
led us to this moment, the Senator
from Kentucky, the Republican leader,
had to accept what is clear. In the his-
tory of the United States of America,
until Senator MCCONNELL’s days under
President Obama, exactly 68 nominees
had been filibustered. Under Senator
MCCONNELL and the Republicans, 79
nominees of President Obama’s were
filibustered. It was an abuse of the fili-
buster—a power never seen in the his-
tory of our Nation, and it was that abuse
of the filibuster and statements made
that they would leave vacancies on
critical courts, like the DC Court of
Appeals, there forever and ever amen,
that led to the decision 4 years ago to
say that we would introduce a change in
the rules so we could finally fill these
court positions—finally break the fili-
buster death grip—which Senator
MCCONNELL brought to this Chamber
in a way never before seen in history.

So the Senator from Kentucky has
made history. He comes to the floor
every day and tells us history. He made
history in the number of filibusters he
used on this floor. He made history in denying a Presidential nominee the opportunity for a hearing and a vote, which had never—never—happened before in the history of the United States. Talk about partisanship.

When it comes to Judge Gorsuch, I read his cases. I sat through the hearings. I was in the Senate Judiciary Committee. We took a measure of the man. He was careful to avoid any question when it came to his position on cases and issues and values, and that is not unusual. Supreme Court nominees do that.

So we tried to look at his cases. What do the cases that he decided reveal about the man? Two or three cases came right to the front. The first involved the sad story of a frozen truckdriver on Interstate 88 outside of Chicago in January a few years back. It was 14 degrees below zero, and the brakes on his trailer froze. He pulled to the side of the road, called his dispatcher and said: I have to do something. He said: You either drive this disabled truck out on the interstate and take your best chances or you stick with the truck. He decided to unhook the trailer and drive to a gas station, gas up and warm up, and come back. For that he was fired.

Seven judges looked at that case to decide whether it was fair to fire Alphonse Maddin. Six of the judges said: No. But the seventh judge said: I rule for the trucking company that fired him—Neil Gorsuch, the nominee for the Supreme Court.

In the Hobby Lobby case, the decision about Judge Gorsuch, two or three cases came right to the front. The first involved the sad story of a frozen truckdriver on Interstate 88 outside of Chicago in January a few years back. It was 14 degrees below zero, and the brakes on his trailer froze. He pulled to the side of the road, called his dispatcher and said: I have to do something. He said: You either drive this disabled truck out on the interstate and take your best chances or you stick with the truck. He decided to unhook the trailer and drive to a gas station, gas up and warm up, and come back. For that he was fired.

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the Senate has been the place where great, seemingly intractable disagreements in American politics finally give way to compromise, precisely because we have a set of rules that requires it. The story of the Senate is one of fierce, inevitable, yet at times even productive, conflict. We tend to pull back when things get too heated because we all care about this institution and its role in our national life. In this case, the cumulative resentments from years of partisan trench warfare may well overwhelm our basic inclination to work together and frustrate our efforts to pull back, blocking us from steering the ship of the Senate away from the rocks.

There is a reason it was dubbed the "nuclear option." It is the most extreme measure, with the most extreme consequences. While I am sure we will continue to debate what got us here, I know that in 20 or 30 or 40 years, we will sadly point to today as a turning point in the history of the Senate and the Supreme Court; a day when we irrevocably moved further away from the principles our Founders intended with these institutions, principles of bipartisanship and moderation and consensus. Let us go no further on this path. I yield the floor.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

We, the undersigned Senators, in accord-
ance 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 Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, Mike Crapo, John Ken-
nedy, Jerry Moran, Mike Rounds, Chuck Grassley, Jeff Flake, Todd Young, John Cornyn, Cory Gardner, Thom Tillis, Marco Rubio, John Thune, Michael B. Enzi, Orrin G. Hatch, Shelby Moore Capito, Steve Daines.

The PRESIDING OFFICER. By unanimous
consent, the mandatory quorum call has been waived.
The question is, Is it the sense of the Senate that the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States 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. The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 106 Ex.]

The motion was agreed to.

The PRESIDING OFFICER (Mrs. FISCHER). The Democratic leader.

Mr. SCHUMER. Madam President, further parliamentary inquiry.

Mr. SCHUMER. Madam President, under the rules and precedents of the Senate, is the Senate prohibited from considering and voting on a nominee to the Supreme Court in the fourth year of the President’s term?

The PRESIDING OFFICER. The Chair is not aware of any such prohibition in its rules or precedents.

Mr. SCHUMER. Madam President, additional parliamentary inquiry.

Mr. SCHUMER. Madam President, in order to allow President Trump, Republicans, and Democrats time to come together and discuss a way forward on a Supreme Court nominee who can meet the 60-vote threshold, I move to postpone the nomination to 3 p.m. on Monday, April 24, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 107 Ex.]

The motion was rejected.

The PRESIDING OFFICER. The majority leader.

Mr. McConNEll. Madam President, our Democratic colleagues have done something today that is unprecedented in the history of the Senate. Unfortunately, it has brought us to this point. We need to restore the norms and traditions of the Senate and get past this unprecedented partisan filibuster.

Therefore, I raise a point of order that the vote on cloture, under the precedent set on November 21, 2013, is a majority vote for all nominations.

The PRESIDING OFFICER. The precedent of November 21, 2013, did not apply to nominations to the Supreme Court.

The point of order is not sustained.

APPEALING RULING OF THE CHAIR

Mr. McConNEll. Madam President, I appeal the ruling of the Chair.

Mr. SCHUMER. Madam President, parliamentary inquiry.

Mr. SCHUMER. Madam President, did the Senate precedent established on November 21, 2013, on how nominations...
The motion was rejected.

APPEALING RULING OF THE CHAIR

The PRESIDENT pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

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

The PRESIDENT pro tempore. Is there a sufficient second?

The motion was rejected.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 109 Ex.]

YEAS—48

Balduf
Bennet
Blumenthal
Booher
Brown
Cantwell
Cardin
Casper
Coons
Cortez-Masto
Donnelly
Feinstein
Franken
Fischer

NAYS—52

Alexander
Barrasso
Blunt
Boozman
Capito
Cochran
Collins
Corker
Donnelly
Enzi
Ernst
Fischer

The PRESIDENT pro tempore. The decision of the Chair does not stand as the judgment of the Senate.

CLOTURE MOTION

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:

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 the debate on the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, Mike Crapo, John Kennedy, Jerry Moran, Mike Rounds, Chuck Grassley, Jeff Flake, Todd Young, John Cornyn, Cory Gardner, Thom Tillis, Marco Rubio, John Thune, Michael B. Enzi, Orrin G. Hatch, Shelby Moore Capito, Steve Daines.

The PRESIDENT pro tempore. 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 Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States shall be brought to a close, upon reconsideration?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 45, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—55

Alexander
Barrasso
Blunt
Boozman
Capito
Cochran
Collins
Corker
Donnelly
Enzi
Fischer

NAYS—45

Balduf
Bennet
Blumenthal
Booher
Brown
Cantwell
Cardin
Casper
Coons
Cortez-Masto
Donnelly
Feinstein
Franken

The PRESIDENT pro tempore. On this vote, the yeas are 55, the nays are 45.

Upon reconsideration, the motion is agreed to.

The PRESIDENT OFFICER (Mrs. FISCHER). The majority whip.

Mr. CORNYN. Madam President, the Senate has just restored itself to an almost unbroken tradition of never filibustering judges.

We have actually restored the status quo before the administration of President George W. Bush. It was during that administration when some of our friends across the aisle, along with some of their liberal law professor allies, dreamed up a way of blocking President George W. Bush’s judicial nominees, and that was by suggesting that 60 votes was really the threshold for confirming judges, rather than the constitutional requirement of a majority vote.

It has been a long journey back to the normal functioning of the United States Senate, and it is amazing that it
has taken a nominee like Judge Gorsuch to bring us back to where we were back around 2001.

We have been debating and discussing this nominee for a long time now, and the opponents of Judge Gorsuch have tried to impedes us right to the very last hours and days, and some opposition to this outstanding nominee—a nomination that no one in the Senate opposed 10 years ago when he was confirmed to a position on the Tenth Circuit Court of Appeals. They claimed he wasn’t mainstream enough. They said this was a man who might possibly be open to doing things that we found odd, and they really should have gone to Merrick Garland. They have even accused him of plagiarism. All of these arguments have no merit whatsoever and really represent desperate attempts to try to block this outstanding nominee. Their claims were simply baseless, and that much became even clearer as folks from across the political spectrum and newspapers from across the country urged our Democratic colleagues to drop their pointless filibuster and allow an up-or-down vote.

What also came to light is the type of man Judge Gorsuch is—a man of integrity, a man of strong independence; in other words, exactly the kind of person you would want to serve on the Supreme Court.

They even claimed that Judge Gorsuch went out of his way to side with the big guy against the little guy, ignoring the fact that during his 10 years on the Tenth Circuit Court of Appeals, where these judges sit on multi-judge panels, he was part of the majority decision 99 percent of the time, and 97 percent of those cases were unanimous in multi-judge panel decisions on the Tenth Circuit Court of Appeals—hardly radical. It actually is a remarkable record of a consensus-builder, someone who uses his great intellect, his education, and his training to build consensus on a multi-judge court—exactly the kinds of skills that are going to be needed for him to serve on the Supreme Court of the United States.

As I said, ultimately today was the culmination of years of obstruction by our Democratic colleagues when it came to judicial nominees.

When I came to the Senate in 2003, the Democratic strategy was well underway to obstruct lower court judicial nominees from the George W. Bush administration.

Later, in 2013, when there was a Democrat in the White House and it suited them to do so, they decided to do away with the same tool they used and went nuclear, lowering the threshold from 60 to 51 majority vote for circuit court nominees and district court nominees.

It took a Gang of 14—7 Democrats and 7 Republicans—to try to work through the differences back around the 2006 timeframe, which resulted in half of President George W. Bush’s nominees to the circuit court getting confirmed and half not being confirmed. The standard was adopted by the so-called Gang of 14 that only under extraordinary circumstances would the filibuster be used, but that agreement expired in 2013.

Well, the minority leader and his colleagues like to say that back then it was necessary to restore a majority vote to the Supreme Court. He even said: “Our Republican colleagues had been holding back on just about all of so many lower-court judges, including the very important DC Circuit,” court, that they were forced to engage in the nuclear option back in 2013. But the facts are that the Democratic leader claimed in terms of the necessity of going nuclear back then. In fact, prior to 2013, the Senate had confirmed more than 200 of President Obama’s judicial nominees and it rejected just 2—more than 200 confirmed, 2 rejected. That hardly rises to a level of extreme obstruction or partisanship. That is a 99-percent confirmation rate for President Obama.

So let’s make it clear just how this began. It started with Democratic obstruction under a Republican administration in 2001, and it has been continuing now under a new Republican administration in 2017. So we really have come full circle to restore the status quo. It started with Democratic friends started down this path.

President Trump has, by all accounts, selected a judge with impeccable qualifications and the highest integrity. Not one of our Democratic colleagues has offered a convincing argument against him, and that is why several of our Democratic colleagues have crossed the aisle to support his nomination, and I thank them for that. I think more would join if they didn’t fear retribution from the radical elements in their own political party.

So today Republicans in the Chamber are following through on what we said we would do. We said we would let the American people select the next Supreme Court nominee and then we would vote to confirm that nominee. The American people, on November 8, selected President Trump. President Trump nominated Judge Neil Gorsuch. And tomorrow we will confirm that nominee and deliver on that promise.

I yield the floor.

The PRESIDING OFFICER (Mr. Sasse). The Senator from Colorado also teaching at the University of Colorado School of Law. This has all helped him build what he is today; that is, a very mainstream jurist, an incredibly exceptional legal mind, one of the brightest jurists this country has to offer, someone who is known as a feeder judge, providing clerks to the Supreme Court, and who has the respect of the Colorado legal community.

I would like to talk about some of these things because I have come to the floor multiple times, and I have talked about his qualifications. I have talked about the people who know him best,
not the people in Washington, DC, but the people who have practiced in front of his court in Denver, the people who know him personally out in Colorado.

Here is what those individuals have said. They believe that Judge Gorsuch deserves an up-or-down vote. Bill Ritter, former Democratic Governor for the State of Colorado, believes that Judge Gorsuch deserves an up-or-down vote. Now we will have it. We have invoked cloture. We will have a final debate and a final vote on whether or not he should be confirmed.

People like Steve Farber, the cochair of the Democratic National Convention in 2008 in Colorado, have talked about the need to confirm Judge Gorsuch.

So the debate that we enter now is not one of whether he will have an up-or-down vote. He is going to have an up-or-down vote. But it is whether we should confirm him, actually give him the “yes” vote.

I urge my colleagues on both sides of the aisle to vote in favor of Judge Gorsuch's confirmation. Some of the arguments that we have heard over the past several weeks on the floor, listening to some of the arguments on the floor—it is quite interesting to me that some of the arguments we hear seem to be at odds with each other.

Presiding over the Senate yesterday, I heard people talk about how they don't think Neil Gorsuch will stand up to the President. They are concerned that he will not express the kind of independence the judiciary commands, that he will not be someone to stand up to the President of the United States. They often cite some of the comments or tweets that the President has made and then fail to mention the fact, though, that at the very time one of those statements was made, he was hearing arguments in his courtroom and delivering opinions. He said he objected to the state of the President, but he is willing to overturn a case that was a subject of the Chevron doctrine.

Here is another irony. The Administrator of the EPA in 1981 was Neil Gorsuch's mother, Anne Burford—the Administrator of the EPA. She was the first woman to serve as EPA Administrator who was the subject of the Chevron doctrine. Not only is he willing to stand up to the President and the administrative state of the President, but he is willing to overturn a case that was a subject of the Chevron doctrine.

I have heard comments from colleagues on the aisle that Judge Gorsuch not being a mainstream jurist is a problem. This argument, I think, can be dealt with in a couple of ways because there are some pretty good statistics to refute these arguments. Ninety-seven. Ninety-seven percent is the number of times in the 2,700 opinions that he was a part of—97 percent represents the times that the decisions were unanimous. Judge Gorsuch did not serve only with conservative-appointed judges, serve with only Republican nominees. Judge Gorsuch served with Republican and Democrat nominees, appointments approved by the Senate. In 97 percent of the cases, Judge Gorsuch ruled—decided—in unanimous opinions.

The other statistic that I think is even more revealing, of course, as to whether Judge Gorsuch is a mainstream jurist is 99 percent. Ninety-nine percent is the amount of times that Judge Gorsuch ruled with the majority of the court; he made decisions—opinions—with the majority of the court.

I heard a comment yesterday from a colleague who said that Judge Gorsuch was never intended to be a mainstream nominee. If Judge Gorsuch was never intended to be a mainstream nominee, do you think we would see a judge before us that has support from the 2008 Democrat National Convention Chairman? If Judge Gorsuch was never intended to be a mainstream nominee, do you think we would have decisions by the Democratic Governor of Colorado, former Democratic Governor of Colorado, to demand or ask for an up-or-down vote? If Judge Gorsuch was never intended to be a mainstream nominee, do you think that the President would have nominated somebody who agreed 99 percent of the time with his colleagues on the bench, colleagues who came from appointments given by Republican Presidents and Democrat Presidents?

The arguments over whether Judge Gorsuch is going to be with the little guy or he spends too much time defending the big guy—well, let me again go back to the people who know Judge Gorsuch the best, who have practiced in front of his court. Here is a statement from a Denver attorney and Democrat on representing underdogs before Judge Gorsuch. This is from the Denver Post: He issued a decision that most certainly focused on the little guy.

Yet the story from the opposition here, out of 2,700 cases, is: Oh, my gosh, this is a person who has never decided the little guy. Well, here is somebody who has practiced in front of his court who absolutely believes he focused on the little guy.

So we have a judge who agrees with the majority of the court most of the time—99 percent of the time; 97 percent of the time it is a unanimous decision, and lawyers practicing in front of him believe that he represents the little guy. We have heard from leading Democrat voices in Colorado that support him. The ABA gave him its highest qualification, rankings, ratings. They believe it.

Then the question becomes, What are we looking for in terms of philosophy, ideology? Well, we have seen his ideology and his philosophy not only by what he has testified before the Judiciary Committee, what he has stated in the past through writings. He is someone who is going to follow the law. He is someone who is going to take a decision where the law says it; he is not going to decide an opinion or decision where his personal beliefs or politics take him. That is the kind of judge we want on the highest Court. That is the kind of Justice we want—someone who is not going to decide a policy preference from the bench of the Supreme Court, not somebody who is going to look at a public opinion poll or someone who is going to take a look at a focus group and make a decision but someone who will rule by the law.

I have heard colleagues come to the floor and talk about their experiences where they were given decisions to read without being given the law. They were given just the facts of the case. They said: How would you have decided this case? They showed him the actual ruling, the actual holding in the case.

Some people believe, well, that is not the way we would have decided because we don't feel that was a good outcome; we don't feel that was the right policy.

It is not the job of a Justice to put their thumb on the scale of policy; it is the job of a Justice to be a guardian of the Constitution, to defend the Constitution, to follow the law and to decide cases based on the law not on feelings, politics, polls, public opinion.

We have a judge—I think he has said it himself—who agrees with every opinion that they have issued is probably a bad judge. He is paraphrasing other judges and Justices throughout our history. It is because he knows it is not his job to issue decisions that are based on ideology. He is looking at the law, leave policy decisions to the legislative branch. That is what we have to do. That is what Judge Gorsuch has said he will do.
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CONGRESSIONAL RECORD — SENATE

So these arguments just don’t hold water. It doesn’t hold water that he is not looking out for the interests of our citizens, because here clearly he is. Democrats who have practiced before him in court have said as much. The argument that he will not stand up to the Trump administration—we know it; he said in front of our Democratic colleagues that he would stand up to the President.

He has said that he rejected attacks on the Court. We also know that when it comes to the Chevron doctrine, which seems to be sacred ground now, that there are these ironic arguments taking place, because you want someone who will stand up to the administration, but then you are concerned that he is interested in or concerned that we have taken the Chevron deference—the doctrine of Chevron deference to. Now which is it? Do you want a judge who is going to stand up to the administration or do you want a judge who is not going to stand up to the administration? It sounds as though the arguments are trying to have it both ways.

The bottom line is that we know Judge Gorsuch to be a person who is eminently qualified, a mainstream jurist who has the respect and admiration of judges around the country, who has the admiration and respect of fellow jurists and legal professionals throughout Colorado, and we know that he will make this country proud. He is going to make Colorado proud as he receives his confirmation to the Nation’s highest Court.

I hope, as we spend these hours debating, that we can realize this Senate should operate in a bipartisan fashion, that we should confirm judges who are clearly mainstream. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, today is a day when many Senators are speaking about Judge Gorsuch and about the Supreme Court. As I think many know, in the last week, in the Judiciary Committee hearings and in other settings, I have announced that I will vote against Judge Gorsuch on the final vote tomorrow. I believe I have made my reasons for my opposition clear. I have thoroughly reviewed and considered Judge Gorsuch’s record and where he fits within American jurisprudence, and I have no second thoughts about my decision.

As I look around at what has just happened on this Senate floor, I am sick with regret. So I rise now to speak in defense of that institution. The Senate has been hallied by many, including our nominee to the Supreme Court, Judge Gorsuch, as the world’s greatest deliberative body. Yet today I think one more blow has been struck at that title and reality.

The late Senator Robert Byrd, who served in this Chamber for 51 years, would famously remind new Senators that “in war and in peace, [the Senate] has been the sure refuge and protector of the rights of the states and of a political minority.”

Of course, although Senator Byrd was the longest serving Senator, as a Delawarean, I grew up in the tradition of Senator Joe Biden, a 36-year veteran of this body who left its ranks only to ascend to the Vice Presidency and spend 8 more years as its Presiding Officer.

Since I have had the honor of assuming Senator Biden’s former seat, I have committed to following his example of working across the aisle, through Republican and Democratic administrations, with whoever is willing to roll up their sleeves and get to work for the American people. I know my colleagues share in this foundational commitment to serve our constituents and country. As I look around at what just happened on this floor, with too little discussion of its lasting consequences and too little vision through our even situation, I must ask the question: Where are we headed?

You can’t see it, but around this Chamber are white marble statues, busts of former Presiding Officers, of former Vice Presidents of the United States. They are in the halls outside this Chamber. They are at the upper level of this Chamber, in the Galleries. All the former Vice Presidents are memorialized in white marble busts.

Former Vice President Adlai Stevenson, the grandfather of the Illinois Governor who ran for President in the middle of the 20th century—former Vice President Adlai Stevenson, when he delivered his farewell address to the Senate on his last day in office as the Presiding Officer of the Senate in 1897, said:

It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort . . . to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict.

By its rules, the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate and its mode of procedure, it may be truly said, “They know not what they do.”

In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate.

It was exactly that right, those rules that were assaulted today, but they have been under assault for a long time.

In recent days, I have reached out to my Republican and Democratic colleagues, trying to see if there was some way we could reach a reliable consensus agreement to safeguard these institutional values and avoid the events of today and tomorrow.

I told my colleagues that I was not ready to end debate on Judge Gorsuch’s nomination until we could chart a course for the Senate to move forward on a bipartisan Presidentially-nominated Supreme Court nominee.

I think for us to get to any constructive conversation about moving this Senate forward requires owning the role that all of us—each of us has played over our time here, whether a few years or decades, in bringing us to this point.

I, for one, will say I have come over time to regret joining my Democratic colleagues in changing the rules for lower court nominations and confirmations in 2013. Of course, I could give an entire speech on the obstruction that led us to that point. I could document the Republican and Democratic deeds and misdeeds of the last Congress and the Congress before that and the decade before that.

As my more seasoned and senior colleagues demonstrated in the Judiciary Committee deliberations, those who have served here longest know best the record of grievance of Congresses in decades past.

I anticipate that many of my colleagues here would agree to regret the decisions and actions taken today in this Congress and in Congresses ahead. Instead of focusing on that shared regret, I want to work together not to continue to tear down the traditions and rules of this Senate but to find ways to strengthen and fortify and sustain them.

I worked to try to find a solution to get past this moment on the brink. I wanted to ensure our next Supreme Court nominee would be the product of bipartisan consultation and consensus, as was safeguarded for years by the potential of the 60-vote margin. I wanted certainty that the voice of the minority would still be heard when vacancies arise. Among many, this effort to forge consensus was met with hopelessness or even hostility.

Back home, thousands of constituents called my office, urging a vote to end the filibuster. Some even urged me to stop talking about any sort of deal. In fact, back home in Delaware, some national groups ran ads against me when there was even a rumor of a hint that there might be conversations about avoiding this outcome.

There were even Senators on both sides of the aisle who told me that an agreement was impossible. They said any agreement is based on trust, and we simply do not trust each other anymore.

Given the events of the last years, the disrespect and mistreatment of Merrick Garland, the course of the confirmation of Neil Gorsuch, I wonder how there is a raw wound right now in this Chamber, where each side feels the other has mistreated a good and honorable and capable nominee for the Supreme Court.

I say my last point again. Senators on both sides told me we could not find a durable compromise because we do not trust each other anymore. If we cannot trust each other anymore, then are there any big problems facing this country which we can address and solve?

This morning, I gave an address at the Brookings Institution about the
threat Russia poses to our democracy, to our allies, to our national security, and to the endurance of our Republic. If that threat is not something that deserves determined, bipartisan effort, I don’t know what is.

There are events that concern our future. I could lay out today, but let me simply emphasize that in the absence of trust, this body cannot play its intended constitutional role, and without trust, we will not rebuild what is necessary to sustain this body.

Every time we point to the finger at the other side as the source of this distrust. The reality is, there is abundant blame to go around.

Popes like to remember the good old days when Justice Scalia was confirmed by this body 98 to 0, when Justice Ginsburg was confirmed 96 to 3, but if we look at our five most recent nominees to the Supreme Court who got votes, you can see a clear trend: Nine Senators, all Republican, voted against Justice Breyer. Then, 32 Senators voted against Justice Roberts. Then 42 Senators, mostly Democrats, voted against Justice Alito. For President Obama’s nominees, Justices Sotomayor and Kagan, more than 30 Republicans opposed each one. Only nine Republican Senators voted for Sotomayor, and only five Republicans voted for Justice Kagan. We have been on this trajectory—both parties—for some time.

The other day, we have Chief Judge Merrick Garland, the first Supreme Court nominee in American history to be denied a hearing and a vote, and we have Judge Gorsuch, the first to be the object of a partisan filibuster on this floor.

We did not get here overnight. We have become increasingly polarized. How can we work together to repair this lack of trust so we can face the very real challenges that face our Nation?

My own attempts of recent days—although I was blessed to be joined by Senators of good will and good faith and great skill in both parties—were ultimately not successful. I wish I had engaged sooner and more forcefully. I wish I had been clearer with my colleagues how determined I was to seek a result, but this doesn’t mean I am disappointed that I tried, and it also doesn’t mean I am going to stop. I am not going to stop trying to fix the damage that has been done, trying to find a better pathway forward.

I ask my colleagues: If you know what you have done today, then what will we do tomorrow? How could we avoid the further deepening, corrosive partisanship in this body? What past mistakes can each of us own up to? What steps can we take to mend these old wounds? What more can we do to move forward together?

We’ve heard the talk about the dysfunction of this body as if it is external to us, as if we bear no accountability for it, but at the end of the day, here we are: 100 men and women sent to represent 50 States of this Republic and 325 million people. In many ways, we have all let them down today.

I can tell you what I am going to do tomorrow. I commit to working with anyone who wants to join me to try to strengthen the rules and traditions of this body and its effectiveness as an absolutely essential part of the constitutional order for which so many have fought and died. It is what all of our predecessors would have warned us about.

Mr. President, I yield the floor.

THANKING SENATORS AND STAFF

Mr. ISAKSON. Mr. President, I will be brief. I also want to make sure I don’t take advantage of the personal privilege I have as a United States Senator, but I am going to anyway.

I want Senator COONS from Delaware to pause for just a second.

I want to thank every Member of the Senate, Republican and Democrat, and the staff of the Senate for the many kindnesses they have extended to me in the last 4 months during my injury and my recovery. I am on the way back home, in large measure, because of the work and kindness and support of the United States Senate. I am very grateful for that and the staff who have allowed that to take place. I say thank you very much.

Notwithstanding what your politics are, I don’t think your partisanship is or anything else, this is a great institution and a great body because it is made up of great people.

To that end, my friend Senator COONS from Delaware made an excellent speech, which I am going to adopt as my speech, since I don’t have the strength to stand as long as I would like to, to talk about an issue so important. We do need to open our minds and our hearts in the days ahead to make sure that what we are as Members of the Senate, regardless of our party and notwithstanding our partisanship.

Neil Gorsuch, from everything I have seen—and I probably have seen more than anybody because I have been watching it on TV while I have been recovering. You guys have had to do it in debate. I have seen the real thing.

His record, his testimony, the way he presented himself, the way Senator Grassley and Senator Feinstein allowed that hearing to go forth, I know we have a good man as a nominee to be a Supreme Court Justice of the United States, but the issues and the divide on the cloture, on a simple majority, and the rule change of 2013, and what has happened in the past, now has us in a position where we slowly but surely are moving to be a body that is another House of Representatives, not the United States Senate.

The majority rule is a great philosophy. The majority winning is always a great philosophy, but I used to have a teacher who taught me. She said: If four equals the majority, three equals zero, but you always need to listen to the other three because sometimes they may be right. I think that is a good lesson for us today, and that was a grammar school teacher.

If there are seven voting members, four does equal the majority, but three doesn’t equal zero because the rest still count.

As we move forward in the days ahead and judge other issues, whether they be partisan issues in terms of regular debate and general legislation, whether it be issues over the confirmation of judges or Secretaries or whatever it may be, let’s be thoughtful, so that, not as a criticism of the House, but as a compliment to our Founding Fathers, we don’t become a second House and later a unicameral body, majority rule and mob rule, and eventually waive rules, where passions overrule common sense and all of a sudden you find yourself digging your way out of a hole that you have created, rather than building the dreams you have always wanted to do.

I commend the leadership of both parties for exercising their political and partisan desires. I commend each Member for being here to take part in this debate today and being a part of it. That is what America is all about.

Somewhere down the line, there is going to be something that is going to happen that is going to cause a resurrection of the debate that we have today and another road to cross on which way we go in the future. The more we move away from a Senate that is a deliberative body, that is a dignified body, to a body that makes sure it knows where it is going before it moves forward, we won’t be better off.

If we move toward a body that is a rubberstamp of the House or a unicameral government of legislation, we will never be the United States of America our Founding Fathers intended us to be. That is what I believe, and that is why I think the end will be.

To all of us, our job is not finished. I look forward to being here and being a part of it.

I yield the floor.

Mr. WHITEHOUSE. Mr. President, I thank the Senator for yielding to me. I wish to say how nice it is to see the Senator from Georgia back here with us.

It means a lot to all of us to have Senator ISAKSON back on the Senate floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WYDEN. Mr. President, I don’t wish to turn this into a bouquet-tossing process, but I think it is very clear that Senators on both sides of the aisle are very, very pleased to see our friend
from Georgia back today. We are wishing him health and Godspeed. We look forward to his full and complete recovery. We are so glad to have him here.

I am also pleased that Senator Coons is on the floor, because I think it would be fair to say that Members on both sides of the aisle who have watched how Senator Coons has conducted himself throughout this extraordinarily contentious debate would say that Senator Coons makes all of us very, very proud.

It is no secret that he has tried repeatedly to bring both sides together, and he and I have talked often about this. I think there are going to be opportunities for finding common ground on important legislation, breaking out of this gridlock that we all understand is not what the Senate is all about and forging toward more mainstream topics. When we get there, to a great extent, it will be because of the thoughtful comments of my friend from Delaware.

Mr. President, the Senate is going to act on one of its most sacred and important constitutional duties, the advice and consent on the nomination of the next Associate Justice of the Supreme Court.

The long tails of these Supreme Court debates stretch through generations and shape our government deep into the future. The choice the Senate makes in this extraordinary debate will have broad and long-lasting impact, from the broadest governing statutes down to the most specific particulars of the law that affect our daily lives.

There are several issues that are particularly relevant to this nominee that have gotten short shrift. I am talking about secret law, and warrantless wiretapping, death with dignity. I intend to discuss these issues shortly.

I would like to begin, however, by stating that whether one supports or opposes Judge Gorsuch, our job would be any different from this philosophy that throughout our history has left so many Americans in days past—a philosophy that masquerades as philosophy, an originalism that masquerades as philosophy, an originalism that I mentioned that has left so many Americans marginalized, disenfranchised and oppressed people, it is because with time, our wonderful country tends to correct its wrongs. It did so with a Civil War and the Thirteenth Amendment, and did so again in the Nineteenth Amendment and the Brown decision. It did so more recently with the Obergfell v. Hodges decision. Historically, our country has gradually recognized fundamental rights and liberties that were guaranteed by the framers.

“Recognition”—I use that word intentionally. It is recognition because there are no new rights, per se. They are inalienable, and those rights are not limited to those spelled out in the Constitution. A jurist governed by that principle would respect individual rights, but that simply isn’t the viewpoint taken by many so-called originalists on the far right today.

The rightwing originalism looks, in my view, a lot more like the judicial philosophy that trampled on the rights of Americans in days past—a philosophy that throughout our history has left many Americans marginalized, disenfranchised, and oppressed by the status quo.

Unfortunately, after listening very carefully to Judge Gorsuch present his views and after reviewing his writings, including some I will mention that specifically talk about my home State, I have no faith that Judge Gorsuch would be any different from this philosophy that I mentioned that has left so many Americans marginalized in our country.

Judge Gorsuch not only has a long record of conservative activism in the courtroom, but he has demonstrated an out-and-out hostility toward the right of individuals to make decisions about their own lives and their own families without interference from the State. In one troubling instance, he went so far as to author a book attacking death with dignity. This of course has been a matter that historically has been left to the States, and the people of my State twice approved death-with-dignity ballot measures and our death-penalty laws have been in place for nearly 20 years. The Supreme Court upheld it more than a decade ago in a case known as Gonzalez v. Oregon. But...
Judge Gorsuch's record and his own words put the will of millions of Oregonians in question.

Nothing in the Constitution gives the Federal Government the power to deny suffering Oregonians the right to make basic decisions about how to end their lives. There is nothing in the Constitution that gives the Federal Government the power to deny people in my State the right to make those emotional, difficult, wrenching decisions about end of life. It is a private matter between any doctor and patient when politicians attempt to force regulations through the back door by going after doctors and their ability to prescribe, in my view that is an obvious over-the-line Federal infringement. But my guess is there are probably going to be some folks on the far right that are going to try that route again.

Nothing Judge Gorsuch said in his confirmation hearing gave me any indication that he respects the death-without-glory and doctors' right to make decisions about end of life of Oregonians. The bottom line is that Judge Gorsuch is locked into an extreme rightwing viewpoint on this issue.

And there is more. As I have listened to this debate and, particularly, the number of comments that some of those who have espoused the views that concern me so much come back to, part of this is that they are always talking about Oregon. States' rights that will be the altar that we really build our views and philosophies around. I will state, however, that when we listen to some of what they are having to say about States' rights, what they are really saying is that they are for the State if they think the State is right. That is not, in my view, what fundamental rights—particularly, ones that have been afforded to States—ought to be all about.

As I understand his views with respect to death with dignity really do involve a Federal abuse of power in its intruding on private choices, but there are other issues that concern me as well.

He has made it clear, in many instances, that he favors corporations at the expense of the working people. He has sided with insurance companies to deny disability benefits to people with disabilities, with large companies to deny employees basic job protections, and has even written that class action lawsuits are just tools for plaintiffs to get "free rides to fast riches."

No example better illustrates this tendency—and my colleagues have talked about it—than the case of the trucker in TransAm Trucking v. Department of Labor. In this case that leaves one practically speechless, Judge Gorsuch sided against a truck driver who was fired for leaving his freezing cold truck when his life was in danger.

I have another significant concern about Judge Gorsuch that came up in the context of his confirmation hearings. It is something that I think, a lot of Americans and even those in government are trying to get their arms around. I have been on the Intelligence Committee since the days before 9/11, and one of the things we have come to feel strongly about is the danger of what I call "secret law." I want to make sure people know exactly what I am talking about when I describe "secret law."

In the intelligence world and in the national security sphere, operations and methods—the tactics used by our courageous men and women who are protecting us and who go into harm's way to protect our people—always have to be secret. They are classified. They have to be because, if they were to get out, we could have Americans die—the people who do all of that wonderful work and, possibly, millions more. Sources and methods have to be secret, fundamental rights are being infringed ought to always be transparent.

The American people need to know about them because that is how we make informed decisions in our won-derful system of government. Voters are given enough information to make the choices. Sources and methods and operations have to be secret, but the law and political philosophies have to be public.

Judge Gorsuch, as a senior attorney in the Department of Justice, was a practitioner of secret law. As I indicated, the public is not going to know about secret operations; we protect them. But trust in government and in our legal system will suffer when Americans understand that the law says one thing and then the government or a secret court says that it means another. Secret law prevents the people from knowing whether their law and the Constitution is being protected. The McCain amendment that prohibited cruel, inhumane, and degrading treatment was best read as, essentially, codifying existing interrogation policies. In other words, according to Judge Gorsuch, JOHN MCCAIN's law—the one that passed 90 to 9 in the U.S. Senate—prohibited cruel torture when it did just the opposite.

The issue came up in his nomination hearing. Judge Gorsuch's explanation was that he was making the recommendation as a lawyer who was helping his client, which was the administration. I have to say, if there is one thing we have learned, this "just following orders" defense has gone on for far too long in this city. It is a small and feeble excuse and is unbecoming of a judge who has been nominated to the highest Court in the land. A judge who justifies government violations in the law and the Constitution just so his boss can say "I was following the advice of counsel" is making a choice to do wrong.

The McCain amendment—what we passed here in the Congress—did not green-light torture. It did not codify torture, period. Anyone who has ever heard JOHN MCCAIN talk about this issue and describe his personal, horrifying experiences with torture knows that it, certainly, could not have been his intent when writing the bill.

Any lawyer, especially one secretly advising the government, first has an obligation to the law and the Constitution. Judge Gorsuch's failure to recognize that principle and his choice to do wrong, in my view, disqualifies him from having a seat on the U.S. Supreme Court.

Torture is not the only illegal program on which Judge Gorsuch has left his fingerprints. After news broke of the illegal, warrantless wiretapping program, Judge Gorsuch helped prepare
testimony for the Attorney General, which asserted that these authorities are vested in the President and are inherent in the office.

It added: "They cannot be diminished or legislated away by other co-equal branch movements."

If that were the case, then no action taken in this area by the elected representatives of the people would have any weight. The Foreign Intelligence Surveillance Act, which has existed since the early 1970s, would just be some kind of advisory statement. Section 702 of the Foreign Intelligence Surveillance Act, which we are going to debate this year, would be little more than wasted paper. Then the USA FREEDOM Act, which ended the bulk collection of law-abiding Americans' phone records, might as well have never been signed into law.

Voting for those bills and voting to confirm Judge Gorsuch call into question any Member's commitment to those that we passed.

In response to a question during his nomination hearing, Judge Gorsuch said that he did not believe the Attorney General's testimony and that, again, he was only acting as a scribe, as a lawyer. As such, he absolved himself of responsibility for his actions. Again, I think that it is just wrong to use this as an excuse. Like the endorsement of torture, assertions that as we look at our Constitution and the Bill of Rights, the Second Amendment. I represent the State of Montana. He will defend the Second Amendment. We also talked about the separation of powers, the role of government, and federalism, and the Fourth Amendment.

Through four full days of hearings, Judge Gorsuch eloquently answered Judiciary Committee members' questions, and certainly, before the entire viewing audience of the American people, he showcased his brilliant legal mind.

At the conclusion of the committee hearing, Judge Gorsuch sat for three rounds of questioning totaling nearly 20 hours. In fact, when Judge Gorsuch appeared before the Judiciary Committee of the U.S. Senate, it was the longest hearing of any nominee in this century. He answered nearly 1,200 questions during that hearing. By the way, that is nearly twice as many questions as Justices Sotomayor, Kagan, or Ginsburg.

Today's vote was nothing more than a partisan fundraising effort for Senate Democrats. In fact, the Democratic Members who have pledged to support him already have threats from liberals of voting them out of office. It is a sad day that this body has become so partisan that, for the first time in this body's history, we had a partisan filibuster to a more than qualified nominee.

Judge John Kane, a judge appointed by Democrat Jimmy Carter, said in an op-ed for an online outlet that "As the saying goes, we could do worse. I'm not sure we could expect better, or that better presently exists."

There is just no arguing that Judge Gorsuch is one of the most qualified nominees of this caliber who has appeared in our lifetime. And, the American people want Judge Gorsuch. The polls show that. In fact, Montana.
they demanded nine Justices on the Court. Today, we are one step closer to confirming him.

Judge Gorsuch is the right replacement to honor the legacy of Justice Antonin Scalia. He has widespread support from across the political spectrum, including our agriculture groups, the NRA, and leaders from across our State. Four Indian Tribes in Montana have endorsed Judge Gorsuch.

The American people deserve a Supreme Court Justice who will uphold the rule of law and follow the Constitution. The American people deserve a Supreme Court Justice who doesn't legislate from the bench. The American people deserve Judge Gorsuch to serve them on the U.S. Supreme Court.

As the American people watched Judge Gorsuch before the Judiciary Committee, they saw an exceptionally qualified nominee for the highest Court in the land. They saw someone who is bright—Columbia undergraduate, Harvard Law School, Oxford Ph.D. I would submit that Judge Gorsuch's intellectual capacities are only exceeded by the size of his heart. This is a kind man. This is a brilliant man. This is an independent jurist.

I very much look forward to casting my vote tomorrow to confirm Judge Gorsuch.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, today we are one step closer to a vote to confirm Judge Gorsuch to the Supreme Court. I look forward to the vote tomorrow. We will be confirming a Justice to the Supreme Court who is supremely qualified, who is a mainstream judge, who respects the rule of law and the Constitution, and who will rule impartially from the bench—someone who will call balls and strikes. That is what I believe the American people look for when they look for a Supreme Court Justice. When it comes to judicial nominations, I hope that the Democrats would oppose any Supreme Court candidate the President nominated. I had hoped that partisanship would be at least somewhat limited. I had hoped the Democrats would want to preserve the Senate's nearly 230-year tradition in confirming Supreme Court Justices by a simple-majority vote. And I had hoped that more than a handful of Democrats would join us to confirm one of the most, as I said, supremely qualified judges in my memory. That is not what happened. Despite Judge Gorsuch's qualifications, despite the support for his nomination from both liberals and conservatives, the vast majority of Senate Democrats were determined to block this confirmation.

Of course, it wasn't really ever about Judge Gorsuch. It is not that Democrats were determined to block his confirmation; it is that they were determined to block any confirmation. Democrats tried to offer reasons to oppose Judge Gorsuch, but they struggled to come up with anything plausible. The Senate minority leader actually came to the floor and tried to argue that he was worried that Judge Gorsuch would not be "a mainstream justice."

Over the course of 2,700 cases on the Tenth Circuit, Judge Gorsuch has been in the majority of the time 99 percent. In 97 percent of those 2,700 cases, the opinions were unanimous. So I would love to hear an explanation for how exactly a judge who has been in the majority of the time and is out of the judicial mainstream. Was the minority leader attempting to argue that all of the judges on the Tenth Circuit, including those appointed by Democratic Presidents, are out of the mainstream?

The fact is that Democratic opposition to Judge Gorsuch had nothing to do with his qualifications. I doubt that any of my colleagues on the other side of the aisle really think that Judge Gorsuch is the wrong man for the job. They argue that he lacks the qualifications of a Supreme Court Justice, but they opposed him anyway.

If they opposed a judge with a distinguished reputation as a brilliant jurist; if they opposed a judge who is known for his fairness and impartiality; if they opposed a judge whose nomination has been repeatedly supported by liberals, as well as conservatives; if they opposed a judge who, in 99 percent of the cases, the opinions were unanimous, then it is abundantly clear that their opposition wasn't about this judge but about any judge this President nominated. Thus, Republicans were left with no real alternative but to act to preserve the Senate's tradition of giving Supreme Court nominees an up-or-down vote. This wasn't my preference. I preferred to leave room for a minority to block a judge who is truly not fit for office. But it was the decisive vote we were left with if we wanted to confirm anyone to the Supreme Court.

Historically, confirming judges was not a partisan process. During the George W. Bush administration, how many Supreme Court nominees had been confirmed? 100 percent. In 97 percent of those 2,700 cases, the opinions were unanimous. So I would love to hear an explanation for how exactly a judge who has been in the majority 99 percent of the time, and it was bipartisan. I am deeply sorry that the Democrats were determined to end that tradition.

Judge Gorsuch should never have faced the threat of a filibuster. There was no reason—no reason other than the usual flagrant partisanship—to block this supremely qualified nominee from the Supreme Court.

As I said, I look forward to tomorrow and to this final vote where we will have an opportunity to confirm to the Supreme Court a qualified, mainstream nominee who fundamentally respects the rule of law and the Constitution of the United States and will act impartially as a Justice for the American people.

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

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

Mr. SHELBY. Mr. President, I wish to address the Senate for a few minutes about the nomination of Judge Neil Gorsuch, which is the topic of the day and has been the topic for weeks. It probably has been said, but I am going to go through some of it again.

Judge Gorsuch is a native of Denver, CO, where he currently resides with his nominees to appellate courts. That was a massive reversal in Senate history. Suddenly the normally smooth process of confirming a President's judicial nominee had been turned into an exercise in partisanship.

To make matters worse, Democrats struck again when they employed the nuclear option to ensure that they could pack the DC Circuit—despite the fact that at the time, when the current minority leader announced that Democrats would "fill up the DC Circuit or the other," Republicans had blocked just two of President Obama's circuit nominees and had confirmed 99 percent of his judges. So 215 were confirmed out of 217 under President Obama up to that point.

And now here we are today. Democrats are again mad that they lost an election, that they can't control the nomination process, and they once again turned to "no-holds-barred" partisanship. They made it clear that no Republican nominee would ever make it to the Supreme Court; thus, we had to act to ensure that Supreme Court nominees can receive an up-or-down vote going forward.

In the Senate's nearly 230 years, the filibuster has been used to block a Supreme Court nominee exactly once—one time. Supreme Court Justice Abe Fortas's nomination to be Chief Justice of the Supreme Court was blocked by a bipartisan coalition, in part over ethical concerns. That is how strong the Senate's bipartisan tradition of an up-or-down vote on Supreme Court nominees has been—230 years, one time. And it was bipartisan. I am deeply sorry that the Democrats were determined to end that tradition.

Judge Gorsuch should never have faced the threat of a filibuster. There was no reason—no reason other than the usual flagrant partisanship—to block this supremely qualified nominee from the Supreme Court.
wife Louise and their two daughters. He is currently 49 years old.

I want to talk about some of his credentials. Judge Gorsuch received his bachelor of arts degree from Columbia University in 1988, his juris doctor from Harvard Law School in 1991, and a doctorate in law philosophy from Oxford University in the UK in 2004.

At Columbia, he was a member of Phi Beta Kappa, a Truman scholar at Harvard Law School, and a Marshall scholar at Oxford.

Following law school, Judge Gorsuch served as a law clerk to Federal appellate judge David Sontelle and then to Justice Byron White of the U.S. Supreme Court and Associate Justice Anthony M. Kennedy of the Supreme Court.

In 1995, Judge Gorsuch entered private practice as an associate of Kellogg, Huber, Hansen, Todd, Evans & Figel, and he was elected partner in that law firm in 1998. His practice focused on general litigation in both trial and appellate matters.

Judge Gorsuch left private practice in 2005 to serve as the Principal Deputy to the Associate Attorney General at the Justice Department in Washington. President W. Bush nominated Judge Gorsuch to the Tenth Circuit Court of Appeals, located in Denver, on May 10, 2006. He was confirmed in the Senate by a voice vote on July 20, 2006.

We talk about qualifications for judges, and we have some outstanding. Judge Gorsuch has served over a decade on the U.S. Court of Appeals for the Tenth Circuit. He has an outstanding judicial record that speaks for itself. He has participated in over 2,700 appeals on the Tenth Circuit, and 97 percent of them have been unani-
mously decided. In those cases, he was in the majority 99 percent of the time.

Of the approximately 800 opinions he authored on the Tenth Circuit, 98 percent of his opinions were unanimous, even on a circuit where 7 out of the 12 active judges were appointed by Demo-
cratic Presidents. His opinions on the Tenth Circuit have the lowest rate of dissenting judges at 1.5 percent. That is unheard of. Out of the eight cases he has decided that were reviewed by the U.S. Supreme Court, seven were affirmed and one was vacated.

Judge Gorsuch’s nomination to the Tenth Circuit Court of Appeals in 2006 was not of any opposition, and he was confirmed by voice vote.

Notably, Senators serving during this time include a lot of my former colleagues: then-Senator Barack Obama, Senator Joe Biden, Senator Hillary Clinton, Senator Joe Kennedy, Senator Harry Reid, and 12 other current sit-
ting Democratic Senators in this body, including the minority leader, Chuck Schumer.

In March, the American Bar Association, ABA, unanimously gave Judge Gorsuch a “well qualified” rating, their highest possible mark. Minority Leader Schumer and Senator Leahy have both previously referred to the ABA as the “gold standard by which judicial candidates are judged.”

In the area of jurisprudence, Judge Gorsuch has a mainstream judicial phil-
sophy, which he clearly articulated during the Senate Judiciary’s con-
firmation hearings.

I believe his record is unequivocal in that he believes judicial decisions should be based on the law and the Constitution and not personal policy preferences. He has a deep commitment to the Constitution and its protections of our Founding Fathers, including the separation of powers, federalism, and the Bill of Rights. Judge Gorsuch’s decisions demonstrate that he consistently applies the law as it is written, fairly and equally to all individ-
uals.

Additional information about Judge Gorsuch: The American people deserve to have their voices heard in selecting Justice Scalia’s replacement. This is what we are doing.

Some of my colleagues intend to op-
pose Judge Gorsuch based solely on the fact that they disagree with the out-
come of the Presidential election.

During President Trump’s campaign last year, he clearly defined the type of Justice he wished to nominate to the current vacancy. He even published, as you will recall, a list of 21 judges who possessed what he believed were the neces-

sary qualifications to serve on the U.S. Supreme Court.

Following Judge Gorsuch’s nomi-

nation, he sat for over 200 hours of ques-
tioning in front of the Senate Judici-
ary Committee in the Senate—the longest hearing of any 21st-century nominee. Additionally, he was given 299 questions for the record by my col-
leagues on the other side of the aisle. This also is the most in recent Su-
preme Court confirmation history.

Simply put, I believe this is the most open and transparent process in choos-
ing a Supreme Court nominee in recent history. By fili-
busting this nomination, some of my colleagues are breaking a nearly 230-
year tradition of approving Supreme Court nominees by a simple-majority vote.

I believe the American people spoke clearly when they elected President Trump. I believe this is the American people’s seat, and I believe Judge Gorsuch is an exceptional choice for the Supreme Court. He deserves an up-
or-down vote, and that is why I believe we are getting ready in the next few hours to confirm him.

I yield the floor.

I suggest the absence of a quorum.

I yield the floor.
the land. In some ways, it is an anachronism in our democracy—uncountable, unelected, sitting for life with the power to strike down actions of elected representatives and an elected Executive by issuing words on paper without the direct means to enforce them, depending on respect and credibility from the American people. To approve nominees by a razor-thin majority is a disservice to the Court and to our democracy.

Supreme Court Justices do more than just follow the law; they have to resolve conflicts in the law and differences among the lower courts where they disagree and, in fact, ambiguities in the statute, where there is lack of clarity, where this body is unable to reach consensus and, in effect, agree to, to the extent it can, and leave some question to administrative agencies, which rightly are entitled to respect, as they implement the law.

Confidence and trust are essential, and we have lost it today. Our Republican colleagues have gravely damaged it by the actions taken today. I have urged my colleagues to reject Neil Gorsuch because I believe he is out of the mainstream, because he failed to answer about whether he agreed with established core precedents essential to rights of privacy and equality under the law, because he has a judicial philosophy that would involve substituting judgments of courts for more objective institutions in our society. It undercuts the Chevron doctrine, and because he favored in many of his actions, opinions, writings the interests of corporations over individual rights.

We have debated the merits of this nominee. I believe that his repeated evasions of the questions that were put to him leaves us with the inescapable conclusion that he passed the Trump test; that he is not a neutral caller of the chequered lines of the litigious American people. To approve the Trump litmus test to overrule Roe v. Wade, strike down gun violence provisions, but also other unknown decisions that have been demeaned and devalued by the Supreme Court. My hope is that maybe it will be a turning point. Maybe we can reconstruct the sense of bipartisanship that has been demeaned and devalued by the Supreme Court. Maybe it will be a turning point. Maybe we can reconstruct the sense of bipartisanship that has been demeaned and devalued by the Supreme Court.

Even at the most difficult and contentious times, as I served then as a law clerk and as I have litigated since then for several decades, I have never doubted that judges were working in good faith to follow the rule of law. Whether they ruled my way or not, I believed that we were working to try to be above partisan politics and uphold the rule of law and do the right thing to follow the law. The answer this does more than follow; it leads. Today's vote is a significant challenge to that principle and perhaps the most difficult that we have seen in recent history. It threatens to exact profound damage on the confidence that the public has in the courts, in the legitimacy of our institutions in our society. It undercuts the rule of law, because it favored in many of his actions, opinions, writings the interests of corporations over individual rights.

Today's action threatens those two institutions in our society. It undermines our rules. It would not have happened without a choice made by the Republican leadership that they were willing to break the rules to achieve this result.

I am determined to try to move forward in a positive way, in legislation as well as in protecting and enhancing our courts, giving them the resources they need to do their job—and law enforcement, the resources needed to uphold the rule of law.

We cannot hold the Supreme Court hostage to any ideology, and that is a lesson from today and from the past year that we should all heed.

Mr. President, I will continue to talk about this topic because I believe it is so profoundly important to our Nation, but for now, I yield the floor.

The PRESIDING OFFICER (Mr. Cassidy). The Senator from South Carolina?

Mr. GRAHAM. Mr. President, when they write the history of our times, I am sure that when it comes to Senate history, this is going to be a chapter, a monumental event in the history of the Senate not for the better but for the worse. After we are all long dead and gone, somebody may be looking back and trying to figure out what happened and what motivated it for that of the President, not to nullify the election, but to be a check and balance to make sure that the President of either party nominated someone who is qualified for the job and is capable from a character point of view of being a judge for all of us, having the intellect, background, judgment, experience to carry out the duties of a Supreme Court Justice.

When President Obama won the White House, I suspected that he would pick judges who I would not have chosen, based on our different philosophies of liberal-conservative jurisprudence. This is what Greg Craig, the former White House Counsel in the Obama administration, said about Elena Kagan, who is now on the Court: “Kagan is...a progressive in the mold of Obama himself.”

This is what Vice President Biden’s Chief of Staff Ronald Klain said about Elena Kagan: “Elena Kagan is clearly a legal progressive...and comes from the progressive side of the spectrum.”

When President Trump submitted the names of the two Justices currently sitting on the Supreme Court, Neil Gorsuch and Brett Kavanaugh, they were a favorite son of a particular party. They were popular but not qualified for the job, somebody who was supported from a character point of view of being a judge for all of us, a check upon a spirit of favoritism in the Senate. It would be an excellent check upon a spirit of favoritism in the President. It would portend greatly to prevent the appointment of unfit characters from state prejudices from family connection, from personal attachment, and from a view to popularity.

So, from Hamilton’s point of view, it was a check and balance against a character who was popular but not qualified for the job, somebody who was supported for this reason. I am not telling any other Senator what they should do. I am just trying to explain what I did. In the Federalist Papers, No. 76, written April 1, 1788, Mr. Hamilton said:

To what purpose then require the co-operation of the Senate? It would be an excellent check upon a spirit of favoritism in the President. It would portend greatly to prevent the appointment of unfit characters from state prejudices from family connexion, from personal attachment, and from a view to popularity.

So, from Hamilton’s point of view, it was a check and balance against a character who was popular but not qualified for the job, somebody who was supported for this reason. I am not telling any other Senator what they should do. I am just trying to explain what I did. In the Federalist Papers, No. 76, written April 1, 1788, Mr. Hamilton said: To what purpose then require the co-operation of the Senate? It would be an excellent check upon a spirit of favoritism in the President. It would portend greatly to prevent the appointment of unfit characters from state prejudices from family connexion, from personal attachment, and from a view to popularity.
it is pretty clear that the Founding Fathers did not have in their minds that one party would nullify the election when the President of another party was chosen by the people when it came to Supreme Court confirmations because everybody they did not agree with philosophically. I voted for Elena Kagan and Sonia Sotomayor, knowing they come from the progressive judicial pool. Neil Gorsuch is one of the finest conservatives that any Republican President could have chosen, and he is every bit as qualified as they were. His record is incredible—10 1/2 years on the bench, 2,700 cases, and 1 reversal. He received the highest rating of the American Bar Association, “well qualified,” just like Sonia Sotomayor and Elena Kagan.

To merit the committee’s rating of “well qualified,” a Supreme Court nominee must be a preeminent member of the legal profession, have outstanding legal ability and exceptional breadth of experience, meet the very high standards of integrity, professional competence, and judicial temperament. The rating of “well qualified” is reserved for those found to merit the committee’s strongest affirmative endorsement. By unanimous vote on March 9, the standing committee awarded Judge Gorsuch this highest rating of “well qualified,” just like they did for Sonia Sotomayor and Elena Kagan. He has 2,700 court decisions and praise from all areas of the law—left, right and middle. The ABA report of 900 cases describes a very thoughtful man, an incredible judge, and a good person. So I don’t think anybody could come to the floor and say—even though they may disagree with the outcome—that Judge Gorsuch is not qualified, using any reasonable standard, to be chosen by President Trump. He is every bit as qualified as the two Obama appointments. So clearly, qualifications no longer matter like they used to.

Antonin Scalia—whom Judge Gorsuch, hopefully, will soon replace as Justice Gorsuch—was confirmed by the Senate 98 to 0. Ruth Bader Ginsburg was confirmed 96 to 3. I would argue that you could not find two more polar opposite people when it comes to philosophy than Justice Ginsburg and Justice Scalia. They became very dear friends, but nobody in their right mind would ever say there was no difference in their judicial philosophy.

Strom Thurmond, my predecessor, a very conservative man himself, voted for Ms. Ginsburg. Clearly a conservative would not have chosen her because she was general counsel of the ACLU. I can tell you that Ted Kennedy and other people on the progressive side of the aisle would not have voted for Antonin Scalia based on philosophy than Justice Ginsburg and Justice Scalia. They became very dear friends, but nobody in their right mind would ever say there was no difference in their judicial philosophy.

I remember Elena Kagan. The attack on our side was that she joined with the administration of Harvard to kick the ROTC unit off campus. Somehow that made her unpatriotic. My view was that it was the position of a very liberal school called Harvard, and no one could ever convince me that Elena Kagan was unpatriotic. She seemed to be a very nice, highly qualified lady, chairman of the Senate Judiciary Committee in 1992.

That made sense. President Trump put a list of names out that he would choose from if he became President, which was historic. Part of the contest in 2016 was above the Supreme Court. I have no problem in saying that, once the campaign season is afoot, we will let the next President pick. That is no slam on Judge Garland. I have zero doubt that if the shoe had been on a different foot, there would not have been a different outcome. I imagine Harry Reid being in charge of the Senate in 2008 and allowing President Bush, in the last year, to nominate somebody in the Court and that they would approve that decision once the campaign season had started in 2008. I say that knowing that it was Senator Reid who chose to change the rules in 2013, which broke the agreement of the Gang of 14 in part.

Here is what Harry Reid said in 2005: "Whereas the United States Senate is set forth in the Constitution of the United States. Nowhere in the document does it say the Senate has a duty to give the Presidential nominee a vote.

All I can say is that in the 100-year history of the Senate, from today going backward, there has been one person put on the Court when the President was of one party and the Senate was held by the other party and a vacancy occurred in the last year of a President's tenure.

We have done nothing that would justify Judge Gorsuch to be treated the way he has been treated, and he has been treated pretty badly. Here is what Nancy Pelosi said: “If you breathe air, drink water, take medicine, or in any other way interact with the courts, this is a very bad decision.”

All I can say is that Judge Gorsuch does not deserve that. That is a political statement out of sync with the reality. This man, who this week, according to the New York Times, is no slam on Judge Garland. I have no problem at all saying that, in part, at least, it was the Gang of 14 in part. I remember what Joe Biden said in 1992. The last year of Bush 41’s term, when there was the suggestion that somebody might retire in the election year, and he said, basically: If someone steps down, I would highly recommend that the President not name someone, not send a name up. If he, Bush, did send someone up, I would ask to seriously consider not having a hearing on that nominee. It would be our pragmatic conclusion that once the political season is underway, and it is, the Supreme Court nomination must be put off until after the election campaign is over. That is what Vice President Bush said when he was
and that decision by Harvard could not be taken to the extreme of saying that she is not fit to serve on the Court. So I was able to look beyond the charges leveled at these two ladies on our side to understand who they really were. When people look at those judges, they can tell you the most accurate information. In the case of Kagan and Sotomayor, there were a lot of people, left and right, who said they were well-qualified, fine ladies. But when you look at what was said about Judge Gorsuch in the ABA report, it is just an incredible life, well lived.

So here we are. We are about to change the rules. Up until 1948, it was a simple majority requirement for the Supreme Court. As a matter of fact, as for most Supreme Court nominations in the history of the country, a large percentage were done based on a voice vote. When Senator Sessions went to hear these judges the best, they can tell you the best that I know how to be. I voted for everybody I thought was qualified. I said, as for Judge Garland, I voted for the next President decide. At the time I said that in March 2016, I had no doubt in my mind that Donald Trump would lose and that Hillary Clinton would probably pick somebody more liberal than Garland. But it made sense to me in that stage of the process to let the next President pick this man says a lot about the political moment. The one thing I can say—I am optimistic, though—is that while I will vote to change the rules for this judicial nomination, I will not vote to change the rules for legislation.

The reason I am voting to change the rules is that I do not know what I would do home and tell people as to how Sotomayor and Kagan got on the Court and Gorsuch could not. Why President Obama was able to pick two people who were highly qualified and why Trump was not able to pick one person who was highly qualified. You just can’t have it where one side gets a Scalia or another 96 votes for a Ginsburg. That is a shame because even they may be different, they are part of our separation of powers. It is vital to our protecting the integrity of the Supreme Court, the work that all of us do—not just members of the Judiciary Committee but every Member of the Senate—for our children and making sure they are qualified and independent, as is Neil Gorsuch. He is enormously important for the protection of liberty itself.

Let’s not ever forget what we are protecting. We are protecting justice, and we are protecting liberty. We are not supposed to be protecting a certain point of view. We are not supposed to be protecting a certain policy preference. We are not supposed to be protecting a certain political party.

I hope tomorrow, when we finally get the opportunity to vote up or down on Neil Gorsuch for his membership on the Supreme Court, that we will consider his nomination in light of how it will affect our country, not our party. When we look at his nomination from that perspective and leave the politics of the last few years in our rearview mirror, I think we can analyze his nomination with a lot more clarity.

Alexander Hamilton, whom I think most Americans admire, said in Federalist No. 78 that the Court has “neither force nor will but merely judgment.” I think that is what we are all looking for—and should be—in a nominee to any court but especially to the Supreme Court.
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U.S. Supreme Court. We are not looking for somebody with a certain policy preference. We are not looking for people with ideas of how the law can be improved because the role of a judge is not to make law, it is to interpret the law as made by the legislative body as best they can understand it. That is why we need someone like Neil Gorsuch, in my estimation, who has good judgment.

I sit on the Judiciary Committee. I have spent 60 hours with Neil Gorsuch or with people who know him well, in hearing their testimony. I have read his opinions. As far as I am concerned, he is as good as it gets. I cannot imagine that President Trump could have picked better.

He is a thoroughbred. He is a legal rock star. If you read his opinions, you will see that he is painstaking in his application of the law to the facts before him. He writes beautifully. His communication skills are absolutely amazing. In every opinion, his grasp of constitutional law, doctrinal law, analytical rigor are clear and concise. His decision processes are wise and disciplined, and he is faithful to the law. He is an intellectual, not an ideologue. He is a judge, not a politician. He is whip-smart, has clear moral compasses—what is right and wrong. He cares for people. He believes in the rule of law. He is a judge, not an ideologue. He is a judge, not an activist, likes snow skiing, fly fishing, and is a fourth-generation Coloradan. I think he will serve every person in our country well as a member of the Supreme Court. That is why I am supporting him.

Let me say one final thing. I do not think there is any vote that will be more important than the vote we will take tomorrow on a President’s nomination to the U.S. Supreme Court, so I want to choose my words carefully. Not a single, solitary vote is more important than that vote we will take tomorrow. That is not to say that there are not other important issues before this body. That is why I think it was so important when we decided not to vote up or down on Judge Gorsuch so that we can move on to other important issues—jobs, jobs, jobs; designing a healthcare delivery system that is affordable, not socially, not culturally, not economically, not politically, not for some special group of people at the top—I want to emphasize “undeserving” because I don’t want to paint with too broad a brush—who are getting bailouts, and we see too many undeserving people at the bottom who are getting handouts. We are in the middle of it, and we get stuck with the bill. We call it the middle class. Kennedy, Kennedy, because our health insurance has gone up, our kids’ tuitions have gone up, and our taxes have gone up. I will tell you what has not gone up—our income.

The sad truth is that our children’s generation is at risk of becoming the first in America, unless this body does something, to be worse off than their parents’ generation because in our country today, for too many Americans, it is harder than ever to get ahead. That is why so many Americans feel the way they feel. The feeling that we are going backwards, that change was promised but has not come, and they are looking to us to do something about it.

So let’s vote. Let’s vote tomorrow. I understand people disagree. I understand unreasonable people can disagree too. But I am going to vote for Neil Gorsuch to be an Associate Justice of the U.S. Supreme Court. Then I am going to ask this body to move on to other important issues that are keeping moms and dads awake at night when they lie down and try to go to sleep.

Thank you, Mr. President.

I yield the floor to the PRESIDING OFFICER, the Senator from Oklahoma.

Mr. INHOFE. Mr. President, when we lost the Honorable Justice Antonin Scalia, we were all saddened, as he was such a legend on the Court, and I am very proud that President Trump nominated a successor who is worthy of fulfilling his shoes.

Judge Gorsuch has garnered respect and approval from people across the legal community, and he has unrivaled bipartisan support. It is unfortunate that the Democrats have tried to block his nomination. It is not going to work, but they have tried.

Recently, I had the honor of meeting Judge Gorsuch. It is kind of interesting because I was not on his list to visit. In fact, I had even said: Don’t waste your time on me, as I know your credentials and I am going to support you anyway.

Judge Gorsuch has an impressive resume, serving as a law clerk to two different Supreme Court Justices. He attended Columbia, Harvard, Oxford, and it doesn’t get any better than that. It is clear he has the qualifications, and as recently as the last administration, that was really all you needed to be confirmed to be on the U.S. Supreme Court.

What the Democrats have done to block his nomination has never been done before. This is significant. People don’t realize—people maybe critical of some of the procedures that were taking place, they forget the fact that there has never been, in the history of America, a successful partisan filibuster of a Supreme Court nomination—there has never been. This will be the first time this happened.

I support the majority leader in changing the rules in the face of this unprecedented action by a minority party. There is really no reason for their filibuster of this highly qualified individual, other than partisanship and catering to their liberal base. Changing the rules for Supreme Court nominations had to be done, and if the situation were reversed, the Democrats would have done the same thing in a heartbeat, as we saw in 2013 when they did the same thing.

Judge Gorsuch deserves to be on the Supreme Court. He does not deserve to be blocked because people are upset that we observed the Biden rule; that is, not providing for any action on a Supreme Court vacancy once the election season is underway—and they lost the election.

Now, that is Joe Biden, not JIM INHOFE.
In addition to his impeccable job and experience and educational background, he is perhaps best known for his defense of religious liberty, including a role in the dispute during the Obama administration that required employers to provide abortion-inducing drugs to their employees as part of their health insurance. One of these employers was Hobby Lobby.

Everyone knows who Hobby Lobby is, but not everyone knew them back when we knew them. I knew them back in the 1970s, when the Green family, who started Hobby Lobby, were actually operating out of their garage, making picture frames, and look at them today. I have known them for a long time. They started out their whole business with a $600 loan. Now they have over 700 stores across the United States and are the largest privately owned arts and crafts store in the world.

Judge Gorsuch and the Supreme Court agreed with Hobby Lobby and upheld their religious liberties. I am going to read to my colleagues his concurring opinion. It is very profound. Judge Gorsuch wrote, after they made the determination that Hobby Lobby did not have to give these drugs to their employees:

It is not for secular courts to rewrite the religious complaint of a faithful adherent, or to decide whether a religious teaching about complicity imposes “too much” moral disapproval on those only “indirectly” assisting in the wrongdoing conduct. Whether an act of complicity is or isn’t “too attenuated” from the underlying wrong is sometimes itself a matter of faith we must respect the faith.

Now, that is what he wrote in Hobby Lobby.

In a very similar situation around the same timeframe, there was a case that is known now to be the Little Sisters of the Poor. He joined in an opinion defending the rights of nuns not to be forced to pay for abortion-inducing drugs in their healthcare plans. This is another testament to his faith. He said: “When a law demands that a person do something the person considers sinful, and the penalty for refusal is a large financial penalty, then the law imposes a substantial burden on that person’s free exercise of religion.”

It is not just petitioners of the Christian faith whom Judge Gorsuch has considered. I applaud the faith of those who, for example, operate their business based on a mission to serve based on their religious beliefs, and who seek religious liberty in the workplace. I support their desire to provide for the needs of the poor. He joined in an opinion in the Little Sisters of the Poor. He joined in an opinion called the Environment and Public Works Committee. During the Obama years, we had a bureaucracy that was trying to change the law instead of following the law. It was exactly what Judge Gorsuch was talking about in this case when he talked about the Chevron deference, giving deference to a bureaucracy. You can imagine being in business, especially a heavily regulated one, that has to worry that the rules might change then and how do you plan to make your plans.

I think Gorsuch’s opinion on Chevron deference is an important debate to have. Do we, as a coequal branch of government, continue to give up our powers to the administrative state or do we take our power back and write laws as they should be implemented? Furthermore, does the judicial branch, as a coequal branch of government, continue to give up their power of interpretation to the administrative state?

These are important, fundamental questions that should be addressed, and I am glad the Gorsuch nomination has brought these cases to light.

Although Judge Gorsuch was nominated by a Republican President, this doesn’t mean my colleagues on the other side of the aisle should have any concern about Judge Gorsuch’s decision-making ability. This is important to point out because a judge is not about making decisions that are in the best interests of any political party but really about making decisions based on facts and the law and the Constitution without bias.

During his confirmation, Judge Gorsuch stated his judicial philosophy, saying:

I decide cases . . . I listen to the arguments made. I read the briefs that are put to me. I listen to my colleagues carefully and I listen to the lawyers in the well . . . . keeping an open mind through the entire process as best I humanly can and I leave all the other stuff at home. And I make a decision based on the facts and nothing else.

Who can argue with that? He has proven over a period of time that he will do that.

Through the whole debate, it has become evident that the Democrats were asking him to rule in favor of causes they did not want to have reversal, which is what a judge does and should do.

Regarding the roles and balance of our government, Gorsuch is what a judge should be. He believes Congress should write the laws, the executive branch is to carry them out, and the judicial branch is to interpret the laws. The confirmation of Judge Gorsuch will shape our Nation for generations and all of us will be able to benefit from his wise decisions.

I am looking forward to confirming Judge Neil Gorsuch. It is going to happen tomorrow, and then all of this will be over. I am proud to give him my vote. Justice will be well served as such.

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

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

Mr. NELSON. Mr. President, I have already cast my “no” vote with regard to the judge and will so again whenever we get to final passage, but I want to take this opportunity to talk about the chaos that is going on in Venezuela.

As if there weren’t already enough chaos, last week Venezuela’s supreme court stripped its legislative branch of its powers—just stripped them of powers. Only because the court had gotten such significant criticism did it reverse its decision. Apparently even the very shaky President of Venezuela, Maduro, weighed in to get them to reverse their decision. Now, isn’t that something?

This is supposed to be a democracy. Yet it is being run as a dictatorship, where even the judicial branch goes and does something crazy and the President of the country gets up and tells them: You had better reverse yourself, there is to be a referendum.

This is the nonsense that is going on in Venezuela. Of course, what went on last week further undermines Venezuela’s so-called democracy, and it is one of the latest signs that Venezuela’s creeping dictatorship. That is what it is.

He has repeatedly and violently suppressed protesters and jailed his political opponents in violation of any understanding of human rights. He has used that same Supreme Court to block members of the National Assembly from taking office, and he has used that Supreme Court as a rubberstamp to overturn the laws that the National Assembly does that he doesn’t like. Isn’t it a sad state that Venezuela has reached?

The President has also thwarted opposition efforts to recall him, President Maduro, in a national referendum. In so doing, he was able to appoint a Vice President with ties to Hezbollah, and now a Vice President it appears that he has sanctioned for drug trafficking.

Meanwhile, the poor Venezuelan people suffer the consequences of the political, humanitarian, and economic
crisis. Venezuelans are dying because of severe shortages of food and medicine and other products. The economy is in freefall, and crime and corruption are rampant.

Last year, 18,000 Venezuelans sought asylum to the United States—more than any other nationality. The United States stands clearly on the side of the Venezuelan people in calling on President Maduro to cease undermining democracy, release all political prisoners, respect the rule of law, and respect human rights.

There obviously is no sign that he is going to be doing this. What should we do? First of all, we ought to get our Secretary of State to work with the international community, including the Organization of American States, to help resolve this crisis and alleviate the suffering of the Venezuelan people.

That is the first order of business, to try to eliminate the suffering of people. It is all so true; whenever a dictator takes power, as has happened in Venezuela, it is the people who suffer first.

Additionally, I am suggesting and I am calling on the administration to fully enforce and, where appropriate, expand regulations on those responsible for continued violence and human rights violations that are perpetrated against the people.

It is very interesting. A lot of these so-called big guys in Venezuela love to travel. They have their own bank accounts. They love to come to Miami. They love to have U.S. bank accounts. Let’s slap some severe economic sanctions on these guys. The situation is increasingly dire, and we must stand with the Venezuelan people in their struggle for democracy and human rights.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AFFORDABLE CARE ACT

Mr. NELSON. Mr. President, while we have a lull in the debate, I want to take an opportunity to talk about healthcare, because we had an unfortunate difficulty of the House of Representatives to come together on any kind of healthcare bill. This Senator would suggest that instead of the mantra “repeal and replace,” since now that seems to be dead, why don’t we take the existing law that has provided a lot of things for the average citizen? For the average person in my State of Florida, it means a great deal to have the availability of health insurance, which they never had and can now afford.

There are to be fixes to the law known as the Affordable Care Act that was passed several years ago. Indeed, one of those fixes could be a kind of “smoothing fund,” that as the insurance companies vie for this business on the State exchanges, they would be able to have this fund as a resource for them to get over some of the humps—also, certainly of some of the insureds. Last because you are at 400 percent of poverty and therefore no longer eligible for some of the subsidies to enable you to buy health insurance—and, by the way, for a single individual, that is only about $75,000 a year of income—the person who makes $76,000, $500 a year more than what it takes to spend $8,000, $10,000, $11,000 on a health insurance policy.

We need to adjust that—in other words, fix that as well. There needs to be an additional fix of a subsidy for the people who are just over 400 percent of poverty. To translate that another way, for a family of four, that is only about $95,000 a year. On a tight budget like that, they simply can’t afford health insurance. They need some help. They do it like that to the existing law—the Affordable Care Act—we could get this thing tuned up and, indeed, continue to provide what we need in order for people to have healthcare.

One other fix: There are about 4 million people in the country who, if their State legislatures and their Governor would expand Medicaid—and some of those Governors are now expressing interest in doing this—under the Federal law up to 138 percent of poverty, 4 million more people would be covered with healthcare. In my State of Florida alone, there are 900,000 people who otherwise would be getting healthcare who do not because the government in the State of Florida has refused to expand Medicaid coverage up to 138 percent of poverty.

How much is that? For a single individual, that is someone making about $16,000 a year. A person like that can’t afford health insurance. A person like that can’t afford any kind of paying for any healthcare.

What happens to them? When they get sick, they wait and wait to try to cure themselves because they can’t pay a doctor. When the sickness turns into an emergency, they end up in the emergency room and then, of course, it is uncompensated care and the hospital eats it. The hospital, of course, passes that uncompensated care on to all the rest of us who are paying our premiums on health insurance.

It makes sense to do this. With a few fixes, we would be able to tune up the existing law to provide the healthcare that most of us want to provide. It seems to me that it is common sense, and it is common sense that can be done in a bipartisan way. It is my hope and my prayer that the Senate and the House will come together and ultimately do this.

Mr. President, I yield the floor.

Mr. REED. Mr. President, the Senate has decided on a purely partisan basis to resolve the impasse of Judge Gorsuch’s nomination by invoking the so-called “nuclear option.” For the first time in our history, nominees to the Supreme Court of the United States may advance from nomination to confirmation with a simple majority vote in this body.

I have heard many of my colleagues ascribe blame equally to both sides, and I have heard analysts and experts say the same. One can question that division, as some very respected scholars like Norm Ornstein of the American Enterprise Institute and Thomas Mann of the Brookings Institute have demonstrated that our political polarization over the last several years, and hence our current impasse, has been driven predominantly by the ever more conservative ideology of the Republican Party. Regardless, here we are.

The Gorsuch nomination lacks the support required for a Supreme Court seat, and the majority leader has chosen a step that Democrats clearly and emphatically rejected when we needed to confirm nominees with broad support but were blocked because they were submitted by President Obama.

I had hoped it was not too late for cooler heads to prevail. Unfortunately, adherence to the principle of 60 votes for consideration of a Justice of the Supreme Court and indeed the existing rule in the Senate was ignored, and we are at this impasse.

Since many have drawn a false equivalence between the last so-called “nuclear option” vote several years ago and what occurred today, let me take a moment to explain, for my part, why I very reluctantly supported a change to the Senate precedent for nominees other than the Supreme Court in 2013.

During President Obama’s tenure, Republicans necessitated more cloture votes than were taken under every previous President combined. Let me repeat that. During President Obama’s tenure, Republicans demanded more cloture votes than were taken under every previous President combined, from George Washington to George W. Bush. In numerical terms, Republicans demanded a cloture vote 79 times over just 5 years. In contrast—from the Founding Fathers all the way through George W. Bush—the Senate only faced that situation 68 times. Republicans obstructed Obama nominees more than any other nationality. Republicans obstructed all nominees combined over the course of more than two centuries.

The bitter irony, of course, was that after a nominee would break through, Republicans often would vote overwhelmingly to confirm the nominee they so adamantly delayed. It was clear their sole guiding principle was obstruction and delay.

Judges nominated by President Obama faced some of the longest waiting times under the five most recent Presidents, and President Obama tied with President Clinton for the fewest number of circuit
court nominees confirmed during that same period. All that time, judicial vacancies stacked up. Justice was delayed and denied. Critical public service roles went unfilled, and the American public came to regard Congress as a place where nothing of substance can occur.

It was under those dire and unprecedented circumstances that I reluctantly joined my colleagues to change the filibuster rules for executive nominations—other than the Supreme Court—very consciously excluding the Supreme Court, which at that time was recognized as appropriate by all my Republican colleagues. But there really is no equivalence between that decision and what the majority did today.

Even in 2013, at the height of Republicans’ partisan attacks on President Obama, Senate Democrats believed the Supreme Court was too important to subject to a simple majority vote. The Supreme Court is the co-equal branch of our government, and its lifetime appointees have final authority to interpret the Constitution. We understood then—as we do now—that the traditional 60-vote threshold to conclude debate on Court nominees was too important to the consensus-driven character of this body to sacrifice.

I think we also have to acknowledge that a President already has nominated a choice. It is a sacrifice of learning 60 votes to a seat on the Court, and that nominee was Chief Judge Merrick Garland. The unprecedented treatment he received by the majority has already made this one of the most infamous and politicized Supreme Court nominations in American history. It is all the more disconcerting that Judge Gorsuch witnessed Judge Garland be treated so poorly but now seems to feel entitled to his seat on the Court. No Senate must change its precedence to give it to him.

I already addressed this body about my deep concerns regarding Judge Gorsuch’s judicial record of ideological activism and championing the powerful over the powerless, but it is worth going into greater detail on one of his opinions that is emblematic of this, and that has recently come to the fore.

In 2008, Judge Gorsuch heard what is referred to as the Luke P. Case. In that case, the child, Luke, experienced severe behavior issues in public and at home. His parents sought advice from the best therapists to try to create the most effective atmosphere for him to make progress in school. Ultimately, they recognized the public school Luke had attended could not provide the learning atmosphere required by the law for Luke. So they placed him in a different school setting.

Luke’s parents exercised their rights under IDEA. The Colorado Department of Education, Office of Administrative Courts, and a Federal district court all agreed that the law entitled them to reimbursement from the school district that was not able to provide an adequate learning environment for Luke. This should have been the end of the matter, but when the school district appealed the case to the Tenth Circuit, Judge Gorsuch’s decision reversed all these factfinders to hold in favor of the school district.

In order to reach his conclusion, Judge Gorsuch went to great lengths—picking and choosing passages from previous decisions—to weave a new standard that essentially eviscerated the protections under IDEA. His strict interpretation of this landmark law utterly undermined its original intent and created a new precedent that schools need only provide “merely more than de minimis” or, in plainer terms, just a little bit more than zero educational opportunity for children with disabilities. That is an outcome of this decision was to force Luke back into an inadequate learning environment and leave his parents with yet another unexpected financial hardship. At the same time, Judge Gorsuch’s new legal standard threatened to degrade the quality of education for children with disabilities all across the country.

The good news for Luke’s family—and for so many others—is that the Supreme Court of the United States intervened in a rare unanimous opinion, reversing Judge Gorsuch’s position—ironically during his confirmation hearings. The Nation has been spared the potential harm that could have resulted from lowering expectations for schools nationwide and leaving families like Luke’s without sufficient recourse.

Yet as my colleagues and I have pointed out at every turn of this confirmation process, this is far from the only decision by Judge Gorsuch that is widely outside the mainstream of modern jurisprudence. He is not—and was never intended to be—a consensus nominee to fill the vacancy on the Supreme Court. It should not come as a surprise that today in the eyes of the Nation and opening the door to an even more polarized judiciary.

I regret that this is the case, and I hope this body can turn back from the course we find ourselves on today. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, we are now well on our way to confirming Judge Gorsuch as the next Justice of the Supreme Court. I have a few things to say about the way we have gotten here.

Earlier today, the other side—meaning the Democrats—made a very unprecedented break with Senate history and with Senate tradition. They launched the first partisan filibuster of a Supreme Court nominee in our Nation’s history. For our part, we Republicans insisted that we follow the practice of the Senate. We don’t engage in partisan filibusters of Supreme Court nominees.

Yesterday, I came to the floor to speak about the path that brought us to this point. As I discussed, way back in 2001, the current minority leader and some of his allies on the far left hatched a plan to, in their words, “change the ground rules” with regard to lower court nominees. I noted a New York Times article describing the Democratic senatorial caucus retreat, where the new approach to nominees was discussed; in other words, where they discussed the strategy for changing the ground rules of how judges are considered by the United States Senate.

Mr. President, I ask unanimous consent to have printed in the Record the May 1, 2001, New York Times article entitled “Washington talk: Democrats Readying for Judicial Fight,” and the April 5, 2017, story from the Washington Examiner entitled “The Gorsuch Plagiarism Story is Bogus.” There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, May 1, 2001]

WASHINGTON TALK: DEMOCRATS READYING FOR JUDICIAL FIGHT

(By Neil A. Lewis)

President Bush has yet to make his first nominee to a federal court and no one knows whether anyone will be confirmed by the Supreme Court this summer, an event that would lead to a high-stakes confirmation battle.
Nonetheless, the Senate’s Democrats and Republicans are already engaged in close-quarter combat over how to deal with the eventual nominees from the Bush White House. Democrats in particular are trying to show some muscle as they insist that they will not simply stand aside and confirm any nominees they deem right-wing ideologues.

When available,供给侧构建一个合适的句子，make sure that both the White House and the Senate Republicans know that we expect to have significant input in the process,” Senate Majority Leader Charles E. Schumer, New York’s senior Democrat, said in an interview. “We’re simply not going to roll over.”

President Bush’s 100-day agenda attended a private retreat this weekend in Farmington, Pa., where a principal topic was forging a unified party strategy to combat the White House judicial nominees.

The senators listened to a panel composed of Prof. Laurence H. Tribe of Harvard Law School, Prof. Cass M. Sunstein of the University of Chicago Law School and Marcia B. Greenberger, the co-director of the National Women’s Law Center, on the need to scrutinize judicial nominees more closely than ever.

Mr. Schumer, who was present, that the nation’s courts were at a historic juncture because, they said, a band of conservative lawyers around Mr. Bush was trying to pack the courts with staunch conservatives.

“They said it was important for the Senate to change the ground rules and there was no obligation to confirm someone just because they are scholarly or erudite,” a person who attended said.

Senator Tom Daschle of South Dakota, the Democratic leader, then exhorted his colleagues behind closed doors on Saturday morning to refrain from providing snap endorsements of any Bush nominee. One senior Democratic aide who was present, that the condition of anonymity said that because some people still remembered with anony of Mr. Bush’s past comments, that some women and members of minorities, administration officials have said. Among those Mr. Bush may put forward to important federal courts could be conservatives as Jeffrey S. Sutton, Peter D. Keisler, Representative Christopher Cox of California and Miguel Estrada.

The first group of nominees, which may number more than two dozen, is part of an effort to fill the 94 vacancies on the federal bench while the Republicans still control the Senate.

But it remains unclear if there will be a Supreme Court vacancy at the end of the court’s term in July. Possible retirements has focused on Chief Justice William H. Rehnquist and Justices Sandra Day O’Connor and John Paul Stevens. But in a statement made to reporters Mr. O’Connor have signaled that she wants it known that she will not retire after this term.

(from the Washington Examiner, Apr. 5, 2017)

**That Gorsuch Plagiarism Story Is Bogus**

Supreme Court nominee Neil Gorsuch is not a plagiarist to the woman from whom he has been accused of lifting materials.

“I have reviewed both passages and do not see an issue here; even though the language is similar. These passages are factual, not analytical in nature, “Abigail Lawlis Kuzma, who serves as chief counsel to the Consumer Protection Division of the Indiana Attorney General’s office, said in a statement made available to the Washington Examiner.

Her remarks came soon after two reports alleged Tuesday evening that President Trump’s Supreme Court candidate had “copied” passages in his 2006 book, “The Future of Assisted Suicide and Euthanasia.” The reports alleged he also lifted material for an academic article published in 2000.

The charge, which involves Gorsuch repeating medical facts or original concepts or ideas, is weak, at best.

(“The similar] passage are factual, not anlytical in nature, framing both the techncial legal and medical circumstances of the ‘Baby/Infant Doe’ case which occurred in 1962,” Kuzma explained. “Given that these passages both describe the basic facts of the case, it would have been awkward and diffcult for Judge Gorsuch to have used different lenguage.”

But Post initially said he was first to report on the similarities between Gorsuch and Kuzma. It published a story Tuesday headlined, “A Short Section in Neil Gorsuch’s 2006 Book Appears To Be Copied From A Law Review Article.

Politico followed suit publishing a story titled, “Gorsuch’s writings borrow from other authors.”

Other newsrooms, including the Huffington Post, Business Insider and New York magazine, moved quickly to repeat the charges against Gorsuch.

Politico bolstered its charge with quotes from multiple academic experts, including Syracuse University’s Rebecca Moore Howarth, who recently wrote a piece about supporting former President Barack Obama.

However, several professors who worked closely with Gorsuch during the period in which he produced much of the work in question said the hints and allegations against the nominee are nonsense.

(“In my opinion, none of the allegations has any substance or justification,” Oxford University’s John Finnis said in a statement Wednesday. He was unable to confirm if all four cases, Neil Gorsuch’s writing and citing was easily and well within the proper and accepted standards of scholarly research and writing in the field of study in which he was working.”

Georgetown University’s John Kewon, who reviewed Gorsuch’s dissertation, said elsewhes that writing with Kewon is entirely without foundation. The book is meticulous in its citation of primary sources.

The allegation that the book is guilty of plagiarism because it does not cite secondary sources which draw on those same primary sources is, frankly, absurd.

Indeed, the book’s reliance on primary rather than secondary sources is one of its many strengths.

Further, actual attorneys disagree that Gorsuch plagiarized anything.

— People unfamiliar with the legal world, or even writing, may be unfamiliar with how citations work,” Attorney Thomas Crow explained on Wednesday. “When I cite to a case or statute, if I am quoting verbatim, I give a direct quotation, with apostrophes and everythng, and then the source. If I am summarizing, sometimes using the same words, I follow with the direct citation. The Bluebook, which is the legal style Bible, is for law reviews and some appellate and trial courts, and has more specific rules.

“I mention this because this is standard across numerous fields, not just law, and only illiterates . . . are shocked,” he added.

But a field with different standards and forms; but even most academics believe that a good synopsis with citation isn’t plagiarism.

In conclusion, he wrote, “I don’t want to ruin a perfectly good five-minute hate, but this isn’t even close to plagiarism.”

Mr. GRASSLEY. After a brief time in the majority, Senate Democrats were back in the minority in 2003—so approximately 2 years later—this is the time they decided to change the rules. It was at that time the Senate Democrats began an unprecedented and systemic filibuster of President George W. Bush’s circuit court nominees.

Then the tables turned. President Obama was elected, and Republicans held the Senate minority. At that time, even though many of us did not like the idea of using the filibuster on judicial nominees, we also recognized that we could not have two sets of rules—one for Republican Presidents and one for Democratic Presidents.

Our party defeated two nominees for the lower courts by filibuster and denied cloure to three of President Obama’s nominees to the DC Circuit Court of Appeals. But the other side did not appreciate being subject to the rules that they first established and started using in 2003 to filibuster judges. So at that point, in 2013, they decided to change the rules of the Senate.

By the way, they changed the rules by breaking the rules. I say that because the rules of the Senate say it takes a two-thirds vote to change the
rules of the Senate, but they changed it by a majority vote. Now at that time, as we all know, Majority Leader Reid changed the rules for all Cabinet nominations and lower court nominees. To say that my colleagues and I were disappointed is a gross understatement.

The majority claimed that they left intact the filibuster for Supreme Court nominees. But my view back in 2013, when they did that, was that the distinction Majority Leader Reid drew between nominees on the lower court and Supreme Court nominees was not a meaningful one. My view, in 2013, was that Majority Leader Reid had effectively eliminated the filibuster for both lower court nominees and the Supreme Court.

Here is the reason. There are two circumstances where this issue might conceivably arise: either you have a Democrat in the White House and a Democrat-controlled Senate or you have a Republican in the White House and a Republican-led Senate.

In the first, there was a Democrat in the White House and the party led by Leader Reid and Leader-in-Waiting Schumer was in the majority. If for some reason Senator Reid or a Majority Leader Schumer would change the rules.

I knew when Majority Leader Reid did it in 2013 that this is where we were headed. That is where we ended earlier this afternoon. But the bottom line is that you cannot have two sets of rules. You cannot clothe yourself in the tradition of a filibuster while simultaneously conducting the very first partisan filibuster of a Supreme Court nominee in history. You cannot demand a rules change only when it suits the Democratic party. You just can’t have it both ways. You can’t use the Senate rules as both a shield and a sword. But I must say, the one thing that does not disappoint me is this: The nominee to take Justice Scalia’s seat is eminently qualified. He will apply the law faithfully without respect to persons. He is a judge’s judge. Come some time tomorrow, we will all start calling him Justice Gorsuch.

I yield the floor. I suggest the absence of a quorum. The PRESIDING OFFICER (Mr. BLUNT). The clerk will call the roll. The legislative clerk proceeded to call the roll. Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WICKER. Mr. President, I rise to express my strong support for Judge Neil Gorsuch, to say that I will proudly vote in favor of his confirmation tomorrow, and to express my confidence that history will judge this nominee to be an outstanding Associate Justice of the Supreme Court. I hope he serves a long and distinguished career and believe he will. I think Justice Neil Gorsuch will turn out to be a credit to the Supreme Court, to the President who nominated him, and to the Senate that will confirm him.

It is unfortunate that we have had quite a bit of discussion about procedure and the process that has gotten us to this vote, which will take place tomorrow afternoon.

I had a conversation with one of my Democratic colleagues yesterday afternoon as we were leaving the Capitol Building. This is a person with whom I have worked on issues from time to time and I have great regard. I asked him how he was doing, and he said: Well, OK. I am just getting ready for the United States Senate to be forever changed.

I paused for a moment, and I said: How can it be that two reasonably intelligent Senators of good will can look at the same factual situation and see it so differently? I think my colleague did agree that, indeed, the situation we have is what has led us to our proceedings today.

I do believe my colleagues on the other side of the procedural issues today are people of good will who are trying to do the right thing by their country on this issue, just as I have been.

Let’s look first of all at the candidate himself, and then I might take a moment or two to talk about what we have already done. That decision has been made. Let’s talk about Neil Gorsuch, about this outstanding future Supreme Court Justice. I believe he will be sworn in tomorrow or the next day.

Is Neil Gorsuch qualified? Really, can anyone contest that he is highly qualified? He is perhaps one of the most qualified people ever to have been nominated by a President for the High Court. He has degrees from Columbia, Harvard Law, and Oxford University. He has received the American Bar Association’s highest rating, the gold standard that we look at when it comes to judging nominees for the Federal bench up to and including the High Court. He served for 10 years with distinction on the Tenth Circuit Court of Appeals. Clearly, he has got the qualifications and clearly that group of qualified individuals that the President promised to look at during the campaign and promised to send that type of individual over to the Supreme Court. I really don’t think there is much that can be said to contradict the fact that Neil Gorsuch is qualified and highly qualified.

So now let’s ask if Neil Gorsuch is somehow out of the broad judicial mainstream. Again, I think it is clear that, based on his history, based on his testimony, and based on his rulings up until now, he is part of the broad judicial mainstream that will put him in good company on the Supreme Court and makes him a worthy successor to Justice Scalia.

First of all, he has earned the praise of both conservatives and liberals. He has even won the endorsement of President Obama’s former Acting Solicitor General, who wrote in the New York Times, if the Senate confirm Judge Gorsuch who sits in the U.S. Court of Appeals for the Tenth Circuit in Denver should be at the top of the list.” So thank you to the
former Acting Solicitor General for going beyond ideology and political philosophy and saying a true statement that Judge Gorsuch is outstanding and should be at the top of the list.

Eid, tribunal boards across the country have touted Judge Gorsuch’s credentials and temperament. The Denver Post, his hometown newspaper, wrote an editorial praising his ability to apply the law fairly and consistently. Of course, there has been newspaper after newspaper in the right and left across this country who come down on this side of the issue saying that Judge Gorsuch should be confirmed.

Let’s look also—and this has been pointed out so often that you wonder if you should say it again, but Judge Gorsuch on the Tenth Circuit has participated in 2,700 cases, he has written over 800 opinions, and has been overruled by the Supreme Court one time. Is this a judicial radical? I think not. It turns out that someone who demonstrated to be in the judicial mainstream—one reversal by the Supreme Court out of 800 written decisions and 2,700 votes cast on panels with the Tenth Circuit. He has almost always been in the majority. He served on the panels he served on, he was in the majority of those opinions, and 97 percent of those decisions were unanimous. This is hardly some radical pick as some might have suggested.

Has the process been unfair? We have heard a lot about this. A lot of my dear friends on the other side of the aisle feel aggrieved for sure. They feel that Judge Garland, the nominee of President Obama in 2016, was treated unfairly. I would simply make this observation, and the American public can decide if this was unfair.

This is a vacancy that came up during a heated, hotly contested Presidential year. There is really no doubt that, in the circumstances, the roles had been reversed and had a Republican tried to nominate a nominee in the last year of his 8-year term, that a Democrat majority in the Senate would have done exactly as we did.

I am not guessing when I say this because the Democratic leaders of previous years have said as much. No less than Joe Biden—who was a former chairman of the Judiciary Committee and later on became Vice President for 8 years—Joe Biden said exactly the same. It almost became the Biden rule. Republican Presidential nominees taken up during the final year of a term will not be considered by a Democratic Senate. So the shoe was on the other foot, and we acted the same.

So we will leave it up to the American people to decide whether Judge Garland was treated unfairly. I do not believe he was. As a matter of fact, I felt very comfortable during 2016 saying that who fills a Supreme Court seat is so important, such a significant and long-lasting decision, that the American people deserve to be heard on this issue. I felt comfortable making the Presidential election largely about what the Supreme Court would look like over the coming years.

There is no question about it, the American people got to decide in November of 2016 what sort of judge a judge in the mold of Justice Scalia whose seat we were trying to fill or would they like a judge in the mold of Judge Garland who President Obama was seeking to put in place. So I make no apology for saying to the American people in this Presidential year what sort of Supreme Court you want. The American people made that decision, and I am comfortable with that.

I was asked today by several members of the press about the change in the rules that I voted for today. It is not a situation that makes me overly joyed. It is not my idea of a good time to overrule a precedent and to substitute another one in its place. You voted for it. I voted for it. If you are a U.S. Senator; but the fact is that it puts us back into a place that we were for 200 years in this Republic.

From the beginning of this Senate, 1789 through 1859, through 1889, up to 1916, every judge appointed to the Supreme Court has been confirmed by a majority vote. This means that if you are a U.S. Senator for 4 years, you will vote on over 200 nominations. This is an entirely different situation from the one we have today.

That changed in 2003, and with the Miguel Estrada nomination, our Democratic friends stopped a qualified judge from going on the Federal appeals court. That was the beginning of an unfortunate 14-year experiment in judicial filibusters. It is not a filibuster that I think—it is not a precedent or experiment that I think this Senate can be very proud of, but it took place over a period of time that is over a 14-year period of time, and it ends it today.

As of today, the U.S. Senate is back where it was for over 200 years in the history of this Senate and the history of our Republic without the ability to overrule a precedent and to substitute another one in its place. That would be that of Judge Neil Gorsuch, who was appointed by the President, in the absence of a quorum.

I think that fact cannot be contradicted. There has never been in the history of our country, even in this past decade and a half of having the possibilities of a Supreme Court filibuster, there has never been a Supreme Court nominee in the history of our Republic stopped by a partisan filibuster.

Today that 225-year or so precedent would have ended had we not acted to change the rules back to where we are back to fundamental principles, I was not willing to see Judge Neil Gorsuch be that first nominee stopped by a partisan filibuster in the history of our country. I was simply not willing to do that. We now must proceed to the rest of our business. We will confirm Judge Gorsuch tomorrow. I think he will serve well. Then we have work to do. We have other nominees to consider, and then we’ve got an agenda that we need to tend to for our people.

I am encouraged by the exchange of the first early steps of goodwill after this divisive process. Indeed, there was an article in one of our publications today that talked about a healthy start. I now in both canucuas and ideological fronts have got to put this procedural episode behind us, this crisis behind us and legislate.

I am glad to hear that sort of bipartisan talk coming from the other side of the aisle. Another of my friends across the aisle said, “We’re not looking for dilatory procedures,” he said. “When there are things where we can work together, we’re looking for that.”

I am encouraged—even encouraged that my friend who I was talking to yesterday afternoon will conclude that we have not forever changed the Senate in a negative way, that we are, in fact, back to where we were before 2003 and getting things done.

This is not about an individual who is qualified. It is about a vacancy that needs to be filled. I for one am highly comfortable that the President, in Neil Gorsuch, has put forth an outstanding, eminently qualified judge and that we will vote tomorrow in favor of confirmation will be cast enthusiastically and proudly, and I think that it will stand the test of time.

I thank the Presiding Officer very much, and at this time, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerks will call the roll.

The legislative clerk proceeded to call the roll.

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

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

I thank the Senator. Mr. President, tomorrow morning or tomorrow afternoon at some point, we will, I believe, vote to confirm Judge Gorsuch to be a Justice to the U.S. Supreme Court. There is so much that has been said about him and his qualifications. I have been listening to the speeches all week. Even headed to the committee hearing, I think so much had been said about him. This is a mainstream candidate. This is a mainstream judge. He is someone who will fit with the majority of the time during his time on the bench. He is someone who 97 percent of the time, in 2,700 cases, was a part of rulings that were unanimous. He most certainly, I believe, is someone who believes the Constitution should be interpreted according to its original intent of the writers, but he is certainly not someone outside the mainstream of American legal thinking, and he is certainly eminently qualified. It is interesting in that you see a broad array of individuals come forward and talk about his qualifications.

I also thought it was interesting that there really was no coherent reason for
opposing him. There are a lot of different opinions on the floor that claim he would not commit to certain decisions that people would like to see him make on the Court. That would be true of virtually everyone who has been nominated to the Court over the last quarter century.

There is no doubt that he is someone who has certain beliefs and views about the Constitution that are reflective of the President’s party, but that is what elections are about. Obviously, the great people whom President Obama appointed reflected his thinking. That is our system. A lot of the attention, though, in this debate has been about the process that brought us here. There has been tremendous consternation about the change that no longer would there be a requirement of 60 votes in order to end debate. I think a lot of people have a fundamental misunderstanding of what has happened here in the Senate. I thought it was important for the people of Florida and others who may be interested to know how I approached it, because it was something that I am not excited about or gleeful about at all. I would say that is probably the sentiment of most of the people here in the Senate. Yet it happened anyway.

I saw a cartoon by one of these editorial cartoonists; I am not quite sure who it was. It had this picture of both sides basically saying: This is terrible, but we are going to do it anyway.

I think it is important to understand, first of all, what the Senate is about. It is unique. There is no other legislative body like it in the world. Unlike most legislative institutions, it does not function by majority rule. It actually requires a supermajority to move forward. That was by design; it was not an accident.

The people—the Founders, the Framers—created a system of government in which they wanted one branch of the legislature to be very vibrant, active, representative of the people. They represent districts, and they have 2-year terms. Then they created another Chamber which was different in nature. At the time, the U.S. Senate was designed, first of all, to represent the States. Where the House was the people’s House, the Senate was the place the States were represented.

The other thing they wanted to design was a place that was at some level possible to have a serious debate about the problems of the moment. They wanted a place where things would slow down for a moment, where we would take a deep breath and make sure we were doing the right thing. It was a wise course.

Our republic is not perfect, but it has survived for over two centuries. In the process, it has given us the most dynamic, most vibrant, and, I believe, the most exceptional Nation in all of human history. While not perfect, the Senate has been a big part of that endeavor.

By the way, at the time, Senators were elected by the legislature; they were not even elected by people. Of course, that changed. I am not saying we should go back, but that is the way it was.

That Senate was also unique because it had this tradition of unlimited debate. When I was up there, they got to debate as long as they wanted, and no one could stop them. Then, at some point, that began to get a little bit abused, so they created a rule that required a supermajority, and that supermajority was further watered down. Then we arrive here, over the last 4 years, to see what has happened.

Basically, what happens now is that there are two ways to stop debate, which is as a result of a procedure that was undertaken on the floor first by Senator Reid when he was the majority leader and now by the majority leader today on what is called the Executive Calendar, where there are nominations for the Cabinet, ambassadors, the sub-Cabinet, courts, and now the Supreme Court. No. 1 is by unanimous consent, when everybody agrees to it, or, No. 2, through 51 votes, a majority vote.

I think that is problematic in the long term, because if people judge Neil Gorsuch, for I believe that in any other era and at any other time, he would not have just gotten 60 votes or even unanimous consent to stop debate; I think he would have gotten 60-plus votes, maybe 70 votes, to be on the Court. I think it is problematic because we do not know who is going to be the President in 15 years or what will be the state of our country. Yet, by a simple majority, without talking to a single person or getting a single vote from the other party or the other point of view, they are going to be able to nominate and confirm and place someone on the bench of the Supreme Court—to a lifetime appointment to a coequal branch of government—without a reflection—of a reflection on the other side. I think, long term, that is problematic—in the case of Neil Gorsuch, not so much, but for the future of our country, I think it could be problematic.

The argument has been made that this has never been used before, so all of the stuff brings us back to where we once were. I think technically that is accurate, but this is not exactly where we once were. Where we once were was that there were people who worked here who understood they had the power to do this. They got it. They understood that if they had wanted to, they could have forced the 60 votes. They understood they had the power to do it, but they chose not to exercise it. They chose to be judicious because they understood that with the power, there comes not just the power to act but sometimes the power not to act, to be responsible, to reserve certain powers for extraordinary moments when it truly is required. And over the years, it has been abused.

This is not going to be a speech where I stand up here and say that this is all on the Democrats, although I most certainly have had quarrels over some of the decisions that have been made by the other side of the aisle. I think it is a moment to be honest and say that we all have brought us here to this point, both sides, and it has required us to do that.

The reason I was ultimately able to vote for the change today is that I am convinced that no matter who would have won the Presidential election and no matter which party would have controlled this Chamber, it was going to happen. Both sides were going to do this because we have reached a point in our politics in America where what used to be done is no longer possible, and that has ultimately found its way onto the floor of the U.S. Senate.

Rules are rules, and ultimately the Republic will survive the change we have seen here today. I think the more troubling aspects are the things that have brought us to this point.

A couple of days ago, while at a lunch with my colleagues, I said that one of the things, I think, we are going to have to accept is that, quite frankly, the men and women who served in this Chamber before us—20, 30 years ago—were just better. They were human beings who, quite frankly, had deeply held beliefs. I do not know of any Member of this Chamber who was more conservative than Barry Goldwater or Jesse Helms. I do not know anyone who was more progressive or liberal than Hubert Humphrey or Ted Kennedy or others. Yet somehow, despite their deeply held principles, these individuals were able to work together to prevent what happened here today.

The fact is, for both sides, that is not possible anymore. Today, our politics require us to use every measure possible, even if it is for symbolic purposes. That is just the way it is. That is problematic because this is an unbalanced political process than it is of the Senate.

I have seen these articles that have been written of “the end of the Senate” or “the death of the Senate.” It is a little bit of an exaggeration, but I think it is actually just reflective of the fact that this is the way politics has become, that as a nation today, we are less than ever capable of conducting a serious debate about major issues in the way we once were able to do. I think everyone is to blame.

I think the way politics is covered is to blame. Today, most articles on the issues before us are not about the issues before us; they are about the politics of the issues before us. Today, most of the work that is done in this Chamber and the other Chamber has more to do with the messaging behind it than it does with the end result of where it will lead us. That is just the honest fact.

Before people start writing or blogging: Well, look at all of these other times when the Senator from Florida—when I did some of these things—I admit it. I do not think there
is a single person here with clean hands on any of this. I admit that I have been involved in efforts that, looking back on some of these things, perhaps, if we knew then what we know now, we would have done differently. I think it is important in life to recognize and learn from these experiences and to adapt them to the moment before us.

I think, moving forward, the biggest challenge we will face in the country is that our issues are not going to solve themselves. There will be no point of view from very different States, very different backgrounds, and very different points of view to be able to come together and solve some pretty big deals. It is ultimately not about silencing people or having them compromise their principles but about acknowledging that in our system of government, we have no choice but to do so. We have no choice.

I think it also requires us to take a step back and understand that the people who do not agree with us are not always as evil as ours actually believe what they are saying. They hold it deep, and they represent people who believe what they are saying. I say this as someone who will admit that, in my time of public service, I have not always applied that as much as I wish I had. I try to. You certainly live and learn when you get to travel the country and meet as many people as I did over the last couple of years. I certainly think that impacts you profoundly.

I have a deeply held belief in limited government and free enterprise and a strong national defense and the core principles that define someone as a conservative. But I have also grown to appreciate and understand the people who share a different point of view—perhaps not as much as I hope to one day be able to understand and respect it, but certainly more than I once did, simply because the more people you meet and learn about them, and the more you learn and understand where they are coming from.

Are we capable as a society to once again return to a moment where people who have different ideas can somehow try to figure out how to make things better, even if the solutions are not perfect? I hope so, because the fate of the most important country in human history is at stake. Are we capable of once again having debates, not that narrow that further divides people. Americans are incapable of confronting problems.

I will just say this. What I really hope will happen soon is that we are going to get tired of fighting with other Americans all the time, that we will finally get fatigued with all of this constant fighting against other Americans. Americans are not your enemies. Quite frankly, I hope we have no enemies anywhere in the world, other than the forces that are a part of seeing them take out of power at some point for the horrible things they do. I hope we will reach a point where people are saying, I am just tired of constantly fighting with other Americans. We will have differences, and we will debate them. Thank God that we have been given a republic where we have elections every 2 years and where we can have these debates. But, in the interim, whether we like it or not, none of us is going anywhere.

The vast and overwhelming majority of Americans will live in this country for 4 years and where we can have these debates. We are going to have to figure out how to share and work together in this unique piece of land that we have been blessed with the opportunity to call home. If we don’t figure out a way to do that soon enough, then many of these issues that confront America will go unsolved, and not only will our people pay a price and our children pay a price, but the world will pay a price.

So I think that is a lot to say about a topic as simple as a rule change and ultimately a vote for the Supreme Court, but I really think it exposed something deeper about American politics. We have had these problems rather than later, or we will all live to regret what it leads to, and that is the decline of the single greatest Nation in all of human history.

With that, I yield the floor.

The PRESIDENT OF THE SENATE.

Mr. GRAHAM. Mr. President, on a more upbeat note, the lady Gamecocks are national champions.

On April 2, this past Sunday, the University of South Carolina women’s basketball team beat Mississippi State 67 to 55 to end a magical season and become the national champions.

This is a magical year for the State of South Carolina. We have the Clemson Tigers, who are the national football champs. Coastal Carolina University is the College World Series title holder for baseball. Now we have the lady Gamecocks as the national champs and in women’s basketball.

Dustin Johnson is the No. 1 golfer in America, who hurt his back today and had to withdraw from the Masters. So that was bad.

This was a great year. I went to the University of South Carolina. I still have 3 years of eligibility for sports for a reason: I was no good. My colleague who is here actually played college football, and we are both Gamecocks fans.

Coach Dawn Staley came to South Carolina in 2008. She has been on three gold medal national championship teams as a player. She is now in the Hall of Fame for basketball and is one of two African-American female head coaches to win the national title in women’s basketball. She is the real deal. She is a wonderful lady.

A’ja Wilson, our dominating junior forward, was the MVP for the Final Four.
Four and SEC player of the year, and first team All American. All the girls played really, really hard.

The men’s basketball team made it to the Final Four and lost in a very tough contest. I could not be more proud of the University of South Carolina men’s basketball team.

Frank Martin, the men’s basketball coach, is the National Coach of the Year.

This is a special time in South Carolina. Gamecock fans, you have been long suffering for a while, and our ship finally came in.

So congratulations to the lady Gamecocks. I can’t wait until next year. We always say that with a sense of dread, but I can’t wait until next year for South Carolina, Clemson, and every other sports team in South Carolina. We are doing something right. I don’t know what it is, but we are all grateful in South Carolina.

I yield to my colleague, who actually played college football, and I don’t think he has any eligibility left because he was good.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. SCOTT. Mr. President, just in the wake of the games that are left after we finish talking about our great State and the great season our school had, there are two things I want to note. No. 1, Coach Frank Martin: coach of the year, a fantastic person, a great communicator, a strong, disciplined coach. It is very hard to misunderstand what he is saying.

Coach Staley: Absolutely, positively, unequivocally the best women’s basketball coach, in my opinion, ever. Against UConn—ever. Dawn Staley, 20 years ago, came within a single point of winning a national championship as a player. Can you just imagine being a single point short? And this must feel like redemption for our coach.

Mr. RUBIO. I have. Coach Martin is a good friend, and I think a testament to how much Florida has to contribute to South Carolina. We are so proud of the fact that both the women’s and the men’s basketball teams from the same school were in the Final Four at the same time.

Mr. RUBIO. Florida.

Mr. SCOTT. What State are you from, sir?

Mr. RUBIO. Florida.

Mr. SCOTT. In what part of Florida were you born and raised?

Mr. RUBIO. South Florida.

Mr. SCOTT. Is there any relationship with the coach before, Senator?

Mr. RUBIO. I have. Coach Martin is a good friend, and I think a testament to how much Florida has to contribute to South Carolina.

Mr. SCOTT. Having been there when you were in South Florida, I would say we made a big contribution to you too.

Mr. RUBIO. I would say to the Senator from South Carolina, South Carolina has gotten better results for Frank Martin than it did for me. But we are very proud of Coach Martin. I would just add that, given the litany of athletic success this year by the State of South Carolina, I find that to be highly suspicious. Not just speaking about conspiracy theories, but statistically, it is very unlikely that a State would have that many championships. I am not calling for a congressional inquiry, but I think it is an interesting topic of conversation.

Mr. SCOTT. Mr. President, if my colleague will yield, I would note that Senator Graham did have clarity in his purpose of identifying the fact that the State has only 4.7 million people in a country of 330 million people, and we have been number one in golf, the No. 1 golfer, that is true; the No. 1 baseball team, that is true; and the No. 1 football team in all of the Nation, Clemson University, that is true; and now the women’s basketball champions, and that is true as well. However, I would point out that we were able to show you a wonderful experience as well in the State of South Carolina, and I hope that one day when you retire from politics, you and your lovely wife will join us and see how we do it, number one golf, baseball, and football. Perhaps then, and only then, will you be a successful football coach.

You have a promising career in politics, but I know that you love and have passion for football, and perhaps when you retire, you too will be a national champion football coach.

Mr. RUBIO. That is highly unlikely. But in all seriousness—

Mr. SCOTT. I am serious—

Mr. RUBIO. I do want to restate that Frank Martin is an extraordinary person. Much more, Senator, and I both had a chance to interact with him on a number of occasions. I don’t mean to single them out among all of the other suspicious athletic accomplishments in South Carolina that are certainly true, but I would say, with Frank, one of the things that really impresses me is not what he does with these young men on the court but the kind of influence he is in their lives off the court and the impact he has had on us and become a South Carolinian yourself. Perhaps then, and only then, will you be a successful football coach.

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Mr. RUBIO. I do want to restate that Frank Martin is an extraordinary person. Much more, Senator and I both had a chance to interact with him on a number of occasions. I don’t mean to single them out among all of the other suspicious athletic accomplishments in South Carolina that are certainly true, but I would say, with Frank, one of the things that really impresses me is not what he does with these young men on the court but the kind of influence he is in their lives off the court and the impact he has had on us and become a South Carolinian yourself. Perhaps then, and only then, will you be a successful football coach.

You have a promising career in politics, but I know that you love and have passion for football, and perhaps when you retire, you too will be a national champion football coach.

Mr. RUBIO. That is highly unlikely. But in all seriousness—

Mr. SCOTT. I am serious—

Mr. RUBIO. I do want to restate that Frank Martin is an extraordinary person. Much more, Senator and I both had a chance to interact with him on a number of occasions. I don’t mean to single them out among all of the other suspicious athletic accomplishments in South Carolina that are certainly true, but I would say, with Frank, one of the things that really impresses me is not what he does with these young men on the court but the kind of influence he is in their lives off the court and the impact he has had on us and become a South Carolinian yourself. Perhaps then, and only then, will you be a successful football coach.

You have a promising career in politics, but I know that you love and have passion for football, and perhaps when you retire, you too will be a national champion football coach.
All of these reasons have been given for a historic change in Senate tradition not to give a Supreme Court Justice an up-or-down vote. Block him on a procedural motion; for the first time ever, block a Supreme Court Justice on a procedural motion with a partisan vote.

Let me take these one at a time as I walk through this.

No. 1, I heard constantly that he is not independent from President Trump. As far as I know, he had never even met President Trump before. This didn’t seem to be a standard, to be independent from the current sitting President.

Let me give an example: Justice Elena Kagan, who is clearly qualified as a legal mind, but I would say Republicans have serious policy differences with her. Justice Kagan was allowed to harangue people, standard that any Court Justice nominee needs to be independent from the President. If they had a standard like that, Justice Kagan would have never been on the bench. Why do I say that?

On May 10, 2010, President Obama nominated Elena Kagan to be an Associate Justice of the Supreme Court. From 1997 to 1999, she served as Deputy Assistant to the President for Domestic Policy and was Deputy Director of the Domestic Policy Council for President Clinton. In 2009, she was confirmed Solicitor General of the United States for President Obama. She worked for President Obama in the Obama White House as his Solicitor General and then was taken directly out of the White House and put on the Supreme Court.

I would say that is not independent from the President. So my mythology, the Supreme Court Justice nominee needs to be independent from the President clearly wasn’t in place when Elena Kagan was being heard.

It is very interesting to me that one of the most talked about decisions from Judge Gorsuch was a Chevron decision that he put out. The whole crux of that decision was the independence of the executive branch, the legislative branch, and the judicial branch. Let me just read a few paragraphs from the decision he wrote. He wrote this:

For whatever the agency may be doing under Chevron, the problem remains that courts are not fulfilling their duty to interpret the law and declare invalid agency actions inconsistent with those interpretations in the cases and controversies that come before them. A duty expressly assigned to them by the APA [Administrative Procedures Act] and one often likely compelled by the Constitution itself. That’s a problem for the judiciary. And it is a problem for the people whose liberties may now be impaired not by an independent decisionmaker seeking to declare the law’s meaning as fairly as possible—rather promised to them by law—but by an avowedly politicized administrative agent seeking to pursue whatever policy whim may rule the day. Those problems remain uncured by this line of reply.

In other words, the judiciary needs to have oversight of the executive agency in what they put out as far as agency rulings, not allowing the White House or any agency to just make any decision they like. He continued writing:

Maybe as troubling, this line of reply invites a nest of questions even taken on its own terms. Chevron says that we should infer from any statutory ambiguity Congress’s “intent” to “delegate” its “legislative authority” to the executive to make “reasonable” policy choices. But where exactly has Congress expressed this intent? Trying to infer the intentions of an institution composed of 535 members is a notoriously dubious task.

In all the accusations that he is not independent of the President, in one of his most famous opinions, he declares that we absolutely need to have independence from the White House—and have a clear separation of powers between judiciary, legislative, and executive. That actually does not stand up to simple muster. So the first thing falls: no independence from the President.

The second phrase which came up often was that he was handpicked by far-right groups. There were all these groups that handpicked him, so somehow that made it horrible that these different groups would actually try to support him.

I go back to Justice Kagan. Again, that wasn’t the standard at that time, and I could use numerous judges through that process. Elena Kagan was supported by the AFL-CIO, by the Human Rights Campaign, by numerous environmental organizations like WildEarth Guardians, Sierra Club, and the National Organization for Women. She had a lot of different liberal or progressive groups that were very outspoken in support of and helping to push her nomination.

There is nothing wrong with that. She was a nominee who was actively engaged in White House politics; she was actively engaged in Democratic campaigns, and a foot soldier for the Dukakis campaign, she was a Democratic activist, and it was well known. That did not preclude her from getting an up-or-down vote for the Supreme Court because she is sitting on the Supreme Court today. There was no cloture vote, mandate, or requirement for a 60-vote threshold as there was pushed by this minority.

This issue that somehow you can’t be handpicked or that having some groups that would support you from the outside somehow precludes you from being a serious consideration is not legitimate, and everyone knows it.

I have also heard individuals out there saying that he is for torture, he is against privacy, he hates truckers, he will step on the little guy, is only for big corporations, and he is not mainstream.

Here is the problem: When you actually look at the history, it is very different from that. Of the 2,700 cases that Judge Gorsuch has been involved in, in the 10 years he has been on the Tenth Circuit, he has been overturned in his opinions once—in 2,700 cases; 97 percent of the time his cases were settled unanimously, and 99 percent of the time he voted with the majority.

Lest you don’t know the Tenth Circuit as we know the Tenth Circuit in Oklahoma, because it is the circuit for our State, the majority of the judges on the Tenth Circuit are judges selected by President Carter, President Clinton, and President Obama. They hold the majority in the Tenth Circuit.

So to say that he voted with them in the majority 99 percent of the time was to say that President Clinton, and Obama appointees also apparently had these radical ideas. It is just not consistent with the facts.

Then I have heard of late that the President should have engaged with Senate leadership on both sides of the aisle to be asked for their approval of the nominee before that nominee was ever brought. Well, I don’t know if that has ever been a requirement. There have been times that Presidents in the white house have come to us with people on both side of the aisle. Fine, but it is certainly not a requirement of the Constitution, and it certainly doesn’t preclude a nomination.

It is interesting to me that Judge Gorsuch offered to meet with 100 Senators one-on-one, face-to-face. Only 80 of them accepted his offer; 20 of them refused to even meet with him face-to-face. He did 4 days of hearings in the Judiciary Committee, 4 solid, long days, where he answered every possible question he could answer.

He has had extensive background checks. Everyone has gone through every piece of everything they could find that has ever been written. In fact, the latest new accusation is they found a couple of places where what he wrote seemed to look strangely like something else someone else wrote—which, when I saw it and read the side-by-side on it, I thought: He forgot to do an annotation. Everyone has gone through thousands of annotations that he did, he didn’t do a couple of them. Somewhere that doesn’t seem to rise to the level that he shouldn’t be on the Supreme Court—that in the tens of thousands of annotations he has written. In the tens of thousands of annotations that he did, he didn’t do a couple of them. Somewhere that doesn’t seem to rise to the level that he shouldn’t be on the Supreme Court—that in the tens of thousands of annotations he has done, he might have missed a couple.

I would challenge anyone serving in this body, to say: You can serve only if you have never missed a single footnote on any paper you ever wrote. I would say: Those who vote in glass houses probably shouldn’t throw stones because we have all had times like that.

He is a solid jurist. I believe he will do a good job on the Supreme Court. As I sat down in his office, we looked at each other face-to-face, and I went through multitudes of hard questions with him, trying to determine his judicial philosophy, seeking one simple thing: Will you interpret the law as the law—not with personal opinion but as the law?

This body is about opinions. This body is about listening to the voices all across our States and trying to make
good policy. Across the street at the Supreme Court, it is about one thing: What does the law say and what did it mean when it was written?

The Constitution and law were not living documents. They do live in the sense that if you want to make changes in the Constitution, you amend the Constitution and you make changes to it. You can’t suddenly say it meant one thing one day but culture has changed and now it means something new.

If you need new law, this body passes new law. In the street, they read the law and ask: What does it mean? It is that straightforward.

I look forward to having a jurist on the Supreme Court as an Associate Justice who says: I may not even like all my opinions and you may not like all my opinions, but I am going to follow the law, and what the law says is what we are going to do.

I think that is the best we can ask from a Supreme Court Justice, and I think that is the best we can do. Without the ability to get him an up-or-down vote. I have to tell you, I am profoundly disappointed that the Senate, to get a simple up-or-down vote, had to go through all of this just to be able to do what we have always done. Background, history, precedent, no rules or policies, this body has always said the President, for his nomination, should get an up-or-down vote when they go through the process.

We are going to do that tomorrow. We will ask Judge Gorsuch on the bench, and we are ready for him to go to work.

Mr. President, I yield back.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. PERDUE. Mr. President, it is humbling to be on the floor of the U.S. Senate with colleagues like Senator LANKFORD from Oklahoma. It is an honor to listen to his words, to his heart, on an issue like today because this is, I believe, a historic day.

On January 31 of this year, I had the great honor of being invited to the White House when President Donald Trump announced his nominee for Associate Justice of the U.S. Supreme Court, Judge Neil Gorsuch. It was a professional rollout of this nomination, but it spoke more to the man, the individual, Judge Gorsuch, than it did to the circumstance surrounding it.

Today, I want to again discuss Judge Gorsuch’s nomination and the 200-plus years of historical precedent put on the line today. As an outsider of this political process, it is clear to me what is going on here. It really has nothing to do with Judge Gorsuch.

The minority party today abandoned 230 years of tradition because of politics, in my opinion. Never before in the U.S. history has a purely partisan filibuster killed a Supreme Court nomination. Never before, in the history of our country, has a partisan filibuster killed a district judge nomination. Never before, and until 2003, has a partisan filibuster killed a circuit judge nomination. Today they attempted to do the same thing when it comes to a nominee to the highest Court in the United States.

It should be noted Republicans did not attempt to do this to either Justice Sotomayor or Justice Kagan when they were nominated by President Obama a few years ago. Throughout our history, even the most controversial Supreme Court nominees, required an up-or-down vote, a simple majority vote. On that note, I also wish to point out there is no longstanding rule or tradition that a Supreme Court nominee must obtain 60 votes to be confirmed.

Clearly, outside of this body, it is recognized in the media, and on both sides of the aisle for that matter, that there is no such thing as a 60-vote standard when it comes to the nomination and confirmation of Supreme Court Justices.

Additionally, the notion that the minority party filibustering Judge Gorsuch’s confirmation is the same as our not allowing a vote last year, that logic doesn’t hold up.

Last year, I joined many of my colleagues on the Senate floor in explaining why we felt it best not to give advice or consent on the nomination of a Justice to the Supreme Court during a Presidential election year. The integrity of the process, clearly outlined in article II, section 2, of the Constitution and in the principle, not the individual. Unlike the argument that it is tradition for a Supreme Court nominee to receive 60 votes, there is actual precedent for the position we took last year on President Obama’s Supreme Court nominee.

Former Vice President Biden, former Minority Leader Reid, and many other Members of both parties have agreed that the political theater of a Presidential election year should not influence the process.

The last time a Justice was nominated and confirmed by a divided government in a Presidential election year was 1868. Clearly, they took more than 100 years of precedent for the position we took last year in not giving advice and consent.

We took a position that was consistent with more than 100 years of actions and comments from Members of both parties. Let’s just get over that. This year stands on its own, independently. The time for debate on this issue has come and gone.

Furthermore, it is obvious that what is at issue here is not Judge Gorsuch’s qualifications. In 2006, Judge Gorsuch was confirmed to the Tenth Circuit Court of Appeals by a voice vote in this body with no opposition. Again, no opposition on the floor of the U.S. Senate, just 10 years ago.

If you need new law, then Senator Biden did not object, then-Senator Reid did not object, then-Senator Clinton did not object, and, yes, then-Senator Obama did not object. Twelve current Members of this body, including the current senior Senator from California, did not object to Judge Gorsuch’s confirmation in 2006.

It is a simple fact, they had the opportunity to raise an objection, and they did not do it. It is obvious that what is going on here has nothing to do with Judge Gorsuch’s qualifications. What is at issue is nothing but pure, unadulterated politics.

This is exactly why I ran for the U.S. Senate, fighting new laws and regulations. This is what makes people home very nervous about the gridlock in this body. This is why President Trump still cannot meet with his full Cabinet today, months after he was sworn in as our President. This is the very cause of gridlock that I believe is causing the dysfunction in Washington.

As I said, Judge Gorsuch was confirmed unanimously by voice vote with no opposition in 2006. Judge Gorsuch is a respected jurist in his commitment to defending and upholding the Constitution.

In my private meetings with him, I have been very impressed that this is his starting and finishing point: He is holding the Constitution. He boasts a unanimous seal of approval from the American Bar Association.

Throughout his extensive career in both the public and private sectors and before his testimony, Judge Gorsuch has demonstrated an impartial commitment to the rule of law. This is another area in which legal
minds from both sides of the aisle agree.

Harvard Law School Professor Noah Feldman, himself no conservative, called it a "truly terrible idea" to try to force Judge Gorsuch, or any judge for that matter, to pose their decisions on the issues involved. Beyond a shadow of a doubt, I know that Judge Gorsuch fully understands that the job of a judge is to interpret, not make, the law.

As a body, he himself said, "A judge who likes every result he reaches is very likely a bad judge, reaching for results he prefers rather than those the law compels."

This commitment to impartiality, regardless of those involved in individual cases, is further evidence his nomination should be confirmed rather than filibustered to death like we have seen today.

Judge Gorsuch's record is evidence enough that he is an impartial judge committed to the Constitution. The opposition has said he is outside the mainstream. That also doesn't hold up.

In 97 percent of his 2,700 cases, judges who also heard the cases unanimously ruled with Judge Gorsuch. In 99 percent of his cases, he was not a dissenting vote. The other side is consistent in saying he is not mainstream. Seriously? How much more mainstream does he have to be?

To that point, Judge Gorsuch has drawn both liberals and conservatives alike. Former President Obama's Acting Solicitor General called Judge Gorsuch "an extraordinary judge and man."

He is not alone in that assessment of Judge Gorsuch. Mainstream media outlets across the country have praised this nominee to the Supreme Court. Recently, the USA Today Editorial Board wrote: "Gorsuch's credentials are impeccable...he might well show the balancing the nation needs at this moment in its history."

The Washington Post's Editorial Board wrote:

"We are likely to disagree with Mr. Gorsuch on a variety of major legal questions. That is different from saying that he is unfit to serve."

The Wall Street Journal Editorial Board wrote: "No one can replace Antonin Scalia on the Supreme Court, but President Trump has made an excellent attempt by nominating appellate Judge Neil Gorsuch as the ninth justice."

As I have noted, the minority party's move to filibuster Judge Gorsuch is not rooted in any actual precedent in the U.S. Senate. It also clearly has nothing to do with Judge Gorsuch himself. By any and all objective measure, he is a mainstream, well-qualified nominee to the U.S. Supreme Court.

That is a point agreed upon by liberals and conservatives alike. Yet here we are today throwing out almost 230 years of tradition, purely because of politics. This body must rise above the self-manufactured gridlock.

Our last President, according to constitutional law professor Jonathan Turley, created a constitutional crisis. It was caused by shutting down the Senate and creating the fourth arm of government, the regulators, and threatening the very balance of our three-branched system. It allowed the former President, through regulatory mandates and Executive orders, to basically fundamentally change the direction of the country without Congress.

If we can't confirm this individual, who is absolutely in the middle of the profile agreed to by past Democrats and Republicans alike, who in the world will we ever be able to confirm? Seriously, if we can't get together on this individual, who is in the mainstream in the middle of the profile? How in the world are we ever going to get past these other critical issues that are before this body? Bipartisan compromise is this what this body was built on. I call on my colleagues to put self-interest and even party interest aside for the nation's interest.

I count it an honor to be in this body. It is a sobering responsibility, but I am very optimistic when men or women of the character of Neil Gorsuch are willing to go through this grueling exercise that we put them through in order to serve. Because of that, I am proud tonight to be a part of a majority that stood up and precluded this from happening.

I am so excited that tomorrow we will have the chance to confirm Neil Gorsuch as the next Associate Justice to the United States Supreme Court.

I yield back my time.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Ohio.

Mr. PORTMAN. Mr. President, I rise today to express my strong support again for Judge Neil Gorsuch. I spoke on the floor the other day about Judge Gorsuch. I just heard my colleague from Georgia talk about him, and he did a terrific job.

This guy, Neil Gorsuch, is the right person for the job. He is qualified. He is smart and he is fair, and a bipartisan majority of the Senate will vote for this worthy candidate tomorrow. Let me underscore that. A bipartisan majority of the Senate will vote for this worthy candidate tomorrow. He will end up getting on the Court.

I must tell you that I regret that some of my colleagues on the other side of the aisle refused to provide him the help that he had without going through the process we had to go through today. As someone who has gone through two Senate confirmations myself, I know they are not always easy. But I will tell you, it is a whole lot better for this institution and our country when we figure out ways to work together—in this case, to continue a Senate tradition of allowing up-or-down votes.

I like to work across the aisle. I have done that through my career. I can point to 50 bills I authored or co-authored that have become law in the last 6 years. They were bipartisan, by definition, because they got through this body and were signed into law by President Obama. I have voted for President Obama's nominees before President Trump. When President Obama had a well-qualified judge here on the floor, I voted for that judge. I voted for Loretta Lynch. That was not an easy vote. I took heat for it back home because I thought she was well-qualified. I think that is what we ought to do in this body.

I am disappointed in the situation we are in. I think we could have followed more than 200 years of Senate tradition and not allowed for a partisan filibuster to try to block this nomination. We chose not to do that in this body. Never in the history of this body has there been a successful partisan filibuster of a Supreme Court judge—never. Some of my colleagues said: How about Abe Fortas? That was several decades ago, and that was bipartisan. Abe Fortas was a Supreme Court Justice who had some ethics issues, and he actually dropped out of trying to get the nomination because of it. But never have we stood up as Republicans—or stood up as Democrats—and blocked a nominee by using the filibuster. It has just not been the tradition.

Instead, it has been to allow an up-or-down vote—a majority vote. There are two Justices on the Supreme Court right now who got confirmed with less than 60 votes. One is Sonia Sotomayor, who was confirmed by 52 senators and 52 votes. The other is Elena Kagan and Justice Alito, who got confirmed with even less than 60 votes. Justice Alito was confirmed by 58 votes only 10 years ago. So these nominees were not filibustered.

By the way, President Obama's nominees, Elena Kagan and Justice Sotomayor, were not filibustered by Republicans. They were given an up-or-down vote. In the history of the Senate, 12 nominations have been defeated on the floor, but, again, never a successful partisan filibuster. Even Judge Robert Bork—some of you remember that nomination. It was very controversial. His nomination was defeated in 1987. He was a Reagan appointee. But he wasn't filibustered. They had an up-or-down vote, and he was voted down.

It is these objections to Judge Gorsuch that would rise to that level where we want to say that over 200 years of Senate tradition ought to
be shunted aside and we ought to stop this man? What are those objections? I must say that I have listened to the floor debate and talked to some of my colleagues on the other side of the aisle. I made my case. They made their case. I just don't think this man is not qualified. He was a law clerk for a decade. We can look at his record.

My colleague from Georgia just talked about that record. It is why the American Bar Association—a group not known to be a conservative body—declared that he was "well qualified." They unanimously declared him to get their highest rating of "well qualified." This is what they said about him. They said:

Based on the writings, interviews, and analyses we watched, we discerned that Judge Gorsuch believes strongly in the independence of the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it.

That is why the American Bar Association gave him their highest rating. Not qualified? By the way, nobody objected—nobody—for any reason, to his nomination to serve as a Federal judge, to be a court of appeals judge, to be a Federal judge for a decade. So we can look at his record.

I heard some of my colleagues talk about some of his decisions. They have picked one of his decisions that he made 30 years ago, and they say it is not a consensus decision. It didn't mean I agreed I was a guy who figures out how to come to a decision people agree with on different sides of the aisle, and from different points of view. That is what his record his. Actually, that doesn't surprise me at all, because he clerked in the Supreme Court for two Justices. One was Byron White, who was appointed by President Lyndon B. Kennedy. Those are two Justices who get a lot of heat. Byron White did, and Anthony Kennedy does—from both sides. Why? Because they tend to be in the middle. They write a lot of decisions that are consensus decisions. They tend to be that fifth vote on a 5-4 decision. That is whom he clerked for.

To note that somehow this guy just doesn't seem to be legitimate to me. This is a guy who had thousands of decisions, and the vast majority were 98 percent or 97 percent unanimous. He had one decision that was appealed to the Supreme Court. The Supreme Court said the litigants must have thought he was wrong. They took it to the Supreme Court to correct him. What happened? The Supreme Court affirmed it. They agreed with Judge Gorsuch.

I don't know whom you could find in the House. That is people who are elected representatives, the law-makers, have done." That is us. That is the House. That is people who are elected back home by the people who expect us to be the elected representatives and to listen to their concerns and then vote. Those laws should not be rewritten by the judiciary. That is the approach he takes. I would think an elected legislator would want to ensure the laws we pass are applied as written. Much more importantly, that is what people want too. That is what people should insist on. We want our votes to count. We want our voices to be heard. My colleague from Georgia just talked about the Constitution. We want our voices to be heard. That is what the Constitution provides, not what he wants.

A judge who likes every outcome he makes is not about ruling in favor or against somebody because you like them or don't like them. It is about applying what the law says. As he said in his testimony recently, his philosophy is "to strive to understand what the words on the page mean . . . to apply what the people's representatives, the lawmakers, have done." That is us. That is the House. That is people who are elected back home by the people who expect us to be the elected representatives and to listen to their concerns and then vote. Those laws should not be rewritten by the judiciary. That is the approach he takes. I would think an elected legislator would want to ensure the laws we pass are applied as written. Much more importantly, that is what people want too. That is what people should insist on. We want our votes to count. We want our voices to be heard. My colleague from Georgia just talked about the Constitution. We want our voices to be heard. That is what the Constitution provides, not what he wants.

I think President Lincoln was right. When judges become legislators, the people do have less of a voice. Judge Gorsuch himself summed it up. He said: "If judges were just secret legislators, declaring not what the law is but what they would like it to be, the very idea of government by the people and for the people would be at risk." I think that is the deeper issue here.

I think the kind of judge we should want. Judge Gorsuch and I had the chance to sit down and talk about this philosophy. We talked about his background and his qualifications. I asked him some very tough questions, and I never asked during the Senate Judiciary Committee nomination process. His hearings were something that all Americans had the opportunity to watch. He did a great job, in my view, because he did focus on how he believes that his job is not to allow his personal beliefs to guide him but, rather, upholding the law as written and the Constitution.
I think that approach is a big reason he has earned the respect of lawyers and judges from across the spectrum, by the way. If you look at the people who say this guy is a great judge, it goes all the way across the political spectrum.

Professor Laurence Tribe of Harvard Law School, an advisor to former President Obama, said Judge Gorsuch is “a brilliant, terrific guy who would do the Court’s work with distinction.” Those of you who know Laurence Tribe, he is well-regarded, considered to be a liberal thinker on many issues. But he has looked at the guy, and he has looked at his record. He knows him. He says he is brilliant, terrific, and will do the Court’s work with distinction.

Neal Katyal—you have heard about him. He was the Acting Solicitor General for President Obama, a guy who knows a thing or two about arguing before the Supreme Court. He said Judge Gorsuch “should give the American people confidence that he will not compromise principle to favor the President who appointed him... He’s a fair and decent man.”

This goes to what the ABA said about him: Independent. He will protect the independence of the judiciary.

Look, he is smart, no question about it. You saw him answer those questions. You have seen his record. He is qualified, as we talked about. He is certainly a mainstream judge, when you look at his opinions—98 percent of the time in the majority, 97 percent of the time unanimous. Three-judge panels. He has the support—the bipartisan support—of a majority of the Senate.

By the way, the American people, as they have plugged into this, also think he ought to be confirmed. There is a recent poll by the Huffington Post, which is not considered a conservative newspaper or entity. They said the people want us to confirm Neil Gorsuch by a 17-point margin. Why? Because they watched him. They looked at the guy. They saw the hearings. They looked at his record. People believe he is the right person to represent them on the Supreme Court.

So, again, while I am disappointed this process has become so polarized and divisive here in this body, I am glad to see this good man take a seat in our Nation’s highest Court. I believe he deserves our support.

I yield the floor.

*The PRESIDING OFFICER. The majority leader.*

TRIBUTE TO FREY TODD

Mr. MC CON NEL L. Mr. President, today it is my privilege to celebrate the retirement of Frey Todd, the “Mayor for Life” of Eubank, KY.

In the last census, Eubank was home to fewer than 400 Kentuckians, but despite their small number, the Eubank community is proud of their town and their mayor.

Since the 1960s, Todd has served his community on the town board. He spent 10 years as the chair of the board, and when Kentucky reorganized municipal governments in 1982 and the position of mayor was abolished, he proudly was elected its first mayor. And every 4 years since, Todd has been elected by his constituents to be their mayor.

Over his 35-year tenure as mayor, Todd has overseen major projects like the construction of the senior citizens center and the Eubank Water System. In a small town like Eubank, the people and their government are almost as close as family. Throughout his entire career, Mayor Todd has shown his passion for his constituents, and they have returned the affection.

At the age of 82, Todd announced his retirement from public service. I would like to join with all the people of Eubank to thank him for his years of dedication and congratulate him on an impressive career.

ARM S S ALES NOTIFICATION

Mr. CORKER. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee’s intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD–423.

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

DEFENSE SECURITY

COOPERATION AGENCY.

Arlingto n, VA.

H.S. B oncOKER.

Chairman, Committee on Foreign Relations.

U.S. Senate, Washington, DC.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 16–80, concerning the Army Corps of Engineers’ proposed Letter(s) of Offer and Acceptance pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended.

(i) Prospective Purchaser: Government of Kuwait.

(ii) Total Estimated Value: Major Defense Equipment $ 0 million. Other $319 million. Total $319 million.

(iii) Description and Quantity or Quanta of Articles or Services under Consideration for Purchase:

Non-MDE: Design, construction, and procurement of key airfield operations, command and control, readiness, sustainment, and life support facilities for the Al Mubarak Airbase in Kuwait. The U.S. Army Corps of Engineers (USACE) will provide project management, engineering services, technical support, facility and infrastructure assessments, surveys, planning, programming, design, acquisition, contract administration, construction management, and other technical services for the construction of facilities and infrastructure for the airbase. The overall project includes, among other features, a main operations center, hangars, support facilities, warehouses, support facilities, and other infrastructure required for a fully functioning airbase.

(iv) Military Department: U.S. Army Corps of Engineers (USACE) (HBE).

(v) Prior Related Cases, if any: N.A.

(vi) Sales Commission, if any, Paid. Offered or Agreed to be Paid: None.

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None.


*As defined in Section 47(e) of the Arms Export Control Act.*

POLICY JUSTIFICATION

Government of Kuwait—Facilities and Infrastructure Construction Support Service

The Government of Kuwait has requested the sale of articles and services for the construction, and procurement of key airfield operations, command and control, readiness, sustainment, and life support facilities for the Al Mubarak Airbase in Kuwait. The U.S. Army Corps of Engineers (USACE) will provide project management, engineering services, technical support, facility and infrastructure assessments, surveys, planning, programming, design, acquisition, contract administration, construction management, and other technical services for the construction of facilities and infrastructure for the airbase. The overall project includes, among other features, a main operations center, hangars, training facilities, barracks, warehouses, support facilities, and other infrastructure required for a fully functioning airbase. The estimated total cost is $319 million.

The proposed sale will contribute to the foreign policy and national security of the United States by supporting the infrastructure needs of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The facilities being constructed are similar to other facilities built in the past by USACE in other Middle Eastern countries. These facilities replace existing facilities and will provide additional support capabilities to the Kuwait Air Force. The new airbase will ensure the continued readiness of
the Kuwait Air Force and allow for the continued education of current and future Kuwait Air Force personnel. The construction of this airbase will enable Kuwait to enhance the overall effectiveness of its military and promote security and stability throughout Kuwait. Kuwait will have no difficulty absorbing this additional capability into its armed forces.

The proposed sale of this infrastructure and support will not alter the basic military balance in the region. USACE is the principal organization that will direct and manage this program. USACE will provide services through both in-house personnel and contract services. The estimated total U.S. Government cost for the contract is $20,000,000.

There are no known offset agreements proposed in connection with this potential sale. There will be no adverse impact on U.S. defense readiness as a result of this proposed sale. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Kuwait.

H.J. RES. 66 AND H.J. RES. 67

Mr. CASEY. Mr. President, the easiest way for workers to save the additional money they need for retirement is through work-based retirement plans. When workers have access to work-based plans, the vast majority of them choose to participate, but many Americans do not work for an employer that offers such a plan. According to AARP, 55 million private-sector workers ages 18 to 64 had no ability to save for retirement through an employer-sponsored plan in 2013. Of those workers, 2.2 million lived in Pennsylvania.

In response, numerous States and multiple cities have considered programs that would give residents better access to retirement savings accounts, and multiple States have already passed laws putting such programs in place. Recent interviews with my colleagues and the citizenry in Philadelphia have shown that corruption is a serious threat to the security of our retirement savings vehicles. If the people of Philadelphia are to expand access to retirement savings vehicles to the citizens by facilitating IRA retirement savings through private employers.

The programs States and cities are pursuing are simple, low-cost, and voluntary. Most would simply require that employers that do not currently offer a plan facilitate voluntary employee contributions to an Individual Retirement Account. Our State and local governments are our idea incubators. Many of our States and cities, including Philadelphia, want to make it easier for workers to save for retirement. In repealing this guidance, Republicans are hindering that effort.

COMBATING GLOBAL CORRUPTION ACT

Mr. CARDIN. Mr. President, this week, I introduced, along with Senators PERDUE, FLEISCHER, RUBIO, BLUMENTHAL, COLLINS, MERKLEY, BOOKER, and LEAHY, the Combating Global Corruption Act of 2017. Global corruption is a fundamental obstacle to peace, prosperity, and human rights. It is fueling transnational criminal networks and violent extremism, and combatting it should be elevated and prioritized across our foreign policy efforts.

I know my colleagues understand the crucial importance of addressing corruption because it undermines public confidence in government institutions and fosters resentment and instability. There is growing recognition across the United States and around the world that corruption poses a threat to international security and stability. The countries and names might be different, but the characteristics and the impact on innocent people are the same. The bribery scandal surrounding the huge Brazilian construction firm Odebrecht has tarnished politicians and governments from Peru to Columbia to Mexico. Rampant corruption in oil-rich Angola is depriving children of a quality education and contributing to the highest child mortality rate in the world. While progress is now being made, extensive corruption in Afghanistan resulted in billions of dollars of assistance winding up in the pockets of crooked elites.

The connections are clear: Where there are high levels of corruption, we find fragile states, political instability, and people suffering from hunger and violence.

Corruption is a global problem, but its consequences take the harshest toll at the local level, and it is very tough to fight. The problem of corruption, and the disruption and suffering it causes, involves many corrupt actors, from government officials to businesspeople, from law enforcement and military personnel to street gangs. Corruption is a system that operates via extensive, entrenched networks in both the public and private sectors.

Some believe the corruption is the life-blood of Vladimir Putin’s Russia, and it is the glue for his regime’s survival. Parasitic at home, deeply corrupt regimes like Putin’s seek to enrich themselves, hollow out their own countries’ institutions, and subvert rules-based democratic states abroad. An anticorruption platform run by opposition activist and aspiring Presidential candidate Alexei Navalny recently released information uncovering four mansions, an Italian vineyard, yachts, and other high-value assets reportedly held by Prime Minister Dmitry Medvedev. Anticorruption demonstrations, in Moscow, St. Petersburg, and across the country in recent weeks reflect the ongoing resistance of the Russian people to government corruption. Hundreds were arrested. Prominent anticorruption activist Ildar Dadin, who has already spent over a year in prison for earlier protests, was among those arrested.

Corruption feeds the destructive fire of criminal networks and transnational crime. Citizens lose faith in the social compact between governments and the people. In Venezuela, we have seen how rampant corruption has collapsed the country’s economy, sparked a humanitarian crisis, and produced chains of money laundering that span several continents. The ongoing crisis there now threatens to collapse the last few remnants of the rule of law.

Corruption also fuels violence by security forces. South Sudan’s kleptocrats have either failed to pay or delayed salary payments to their soldiers who have in turn taken out their rage on innocent civilians, attacking soldiers who have in turn taken out their delayed salary payments to their soldiers who have in turn taken out their rage on innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacking innocent civilians, attacked...
revolutions have degenerated into some of the chief security challenges we confront now—Russian aggression in Ukraine, 6 years of slaughter in Syria, the implosion of Libya, a brutal war in Yemen, the fraying of Iraq, and an expanding insurgency in Egypt. Often, corruption fuels the very extremism and terrorism, too; it gives credibility to militant religious extremists and helps them gain recruits and increasing footholds in Afghanistan and Iraq to Pakistan, Central Asia, and other locales. It may seem like a spurious example, but it can be persuasive to a young Nigerian man whose sister was molested by a teacher as the cost for attending school.

Let’s be clear-eyed. Any fight against corruption will be long-term and difficult. It is a fight against powerful people, powerful companies, and powerful interests. It is about changing a mindset and a culture as much as it is about channeling and enforcing laws and regulations. As my colleagues and constituents know, my attention has long been focused on fighting corruption. I introduced the Global Magnitsky Human Rights Accountability Act to target human rights abusers and corrupt individuals around the globe who threaten the rule of law and deny fundamental freedoms, but the problem is so big—we simply have to do more.

This is why this week I introduced the bipartisan support the Combating Global Corruption Act of 2017 in the U.S. Senate.

We must meet the scale of entrenched corruption with greater resolve and commitment. To do that, I believe we must focus on three things which I will lay out in my legislation.

First, we must institutionalize the fight against corruption as a national security priority. In my bill, the State Department will produce an annual report similar to the Trafficking in Persons Report, which takes a close look at each country’s efforts to combat corruption. That model, which has effectively advanced the effort to combat modern day slavery, will similarly embed the issue of corruption in our collective work, so that we hold governments to account.

The bill establishes minimum standards for combating corruption—standards that should be every government’s duty to citizens. These include whether a country has laws that recognize corrupt acts for the crimes they are—violations of the people’s trust—and that come with serious penalties for breaking that trust; whether an independent judiciary decides corruption cases, free from influence and abuse; whether there is support for civil society organizations that are the watchdogs of integrity against would-be thieves of the state. This bill aims to build anticorruption DNA into the basic function of government.

Second, the bill would improve the way we look at our own foreign and security assistance, and promote more transparency—let in some daylight. For countries that fall short on their corruption efforts, the bill calls for an assessment of the risk of corruption for our foreign assistance and steps to combat corruption, including the ability to claw back any funds diverted from anti-corruption programs or terminate compromised programs. American taxpayers should know how our foreign assistance is spent, and they should feel confident that we are doing the kind of risk assessments, analysis, and oversight that ensure our assistance to other countries is having the effect we want it to have.

Third, the bill consolidates information about anticorruption efforts abroad and puts it online, where citizens can see the numbers and the programs. That kind of transparency is essential to open government, but in my experience, it also has the effect of making us better at self-policing our work. We can use the data to capture trends and analyze patterns, improving our decisionmaking.

I urge my colleagues to join me and the bipartisan cosponsors of this legislation in this effort. The success of our diplomacy, and the ultimate impact of our international security efforts depend on it.

Thank you.

JOINT COMMITTEE ON CONGRESS ON THE LIBRARY

RULES OF PROCEDURE

Mr. SHELBY. Mr. President, on April 6, 2017, the Joint Committee of Congress on the Library organized, elected a chairman, a vice chairman, and adopted committee rules for the 115th Congress. Members of the Joint Committee on the Library elected Congresswoman GREGG HARPER as chairman, and Senator RICHARD SHELVY as vice chairman. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

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

RULES OF PROCEDURE OF THE JOINT COMMITTEE ON CONGRESS ON THE LIBRARY—115TH CONGRESS

TITLE I—MEETINGS OF THE COMMITTEE

1. Regular meetings may be called by the Chairman, with the concurrence of the Vice-Chairman, as may be deemed necessary or desirable. A copy of the notice shall be sent to all members of the committee who are present at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings of the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would be closed. If the motion is closed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) would disclose matters necessary to be kept secret in the interest of national defense or the confidential conduct of the foreign relations of the United States;

(B) would reveal the identity of any individual who is required to be kept secret in the interest of effective law enforcement;

(C) would disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement;

(D) would disclose the identity of any individual who is required to be kept secret in the interest of effective law enforcement;

(E) would disclose information relating to the trade secrets or financial or commercial information of a person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under the provisions of law or Government regulation. (Paragraph 5(b) of rule XXVI of the Standing Rules of the Senate.)

3. Written notices of committee meetings will normally be sent by the committee’s staff director to all members at least 3 days in advance. In addition, the committee staff will email or telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee’s intended agenda enumerating separate items of committee business will normally be sent to all members of the committee at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereon, in such form as the Chairman may direct, unless the Chairman waives such a requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum.

2. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 3 members of the committee shall constitute a quorum for the purpose of taking testimony; provided, however, once a quorum is established, any one member can continue to take such testimony.

3. Under no circumstance may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, a recorded vote may be taken on any question by roll call.
RULE 2.—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if the subject matter is not significant enough to be considered and after appropriate notification is made to the Ranking Minority Member. Additional meetings may be called by the Chairman as may be necessary for or at the request of the majority or the minority of the Committee.

(b) If the Chairman of the Committee is not present at any meeting of the Committee, the Vice-Chairman or Ranking Member of the majority party on the Committee who is present shall preside at the meeting.

(c) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(d) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 3.—PROXIES

(a) Written or telegraphic proxies of Committee members shall be received and recorded on any vote taken by the Committee, except for the purpose of creating a quorum.

(b) Proxies will be allowed on any amendement for the purpose of recording a member’s position on a question only when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded.

RULE 4.—OPEN AND CLOSED MEETINGS

(a) Each meeting for the transaction of business of the Committee shall be open to the public, except when the Committee, in open session and with a quorum present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public. No such vote shall be required to close a meeting that relates solely to internal budget or personnel matters.

(b) No person other than members of the Committee, and such congressional staff and staff of the Committee, except that request of the individual, partnership, corporation or entity furnishing the same, be authorized by a Committee Member to make insertion or additional germane material shall be limited to brief summaries. Limited to the purpose of closing meetings, promulgating rules of the Committee.

RULE 5.—WITNESSES FOR COMMITTEE HEARINGS

(a) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the Committee for its approval sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the staff director of the Committee shall receive in closed hearings shall not be released or included in any report without the approval of the Committee.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the majority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of the hearings.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 6.—CONFIDENTIAL INFORMATION

The information contained in any books, papers or documents furnished to the Committee or any of its staff, or held by the Committee or the staff, shall be deemed confidential and shall not be released or included in any report without the approval of the Committee.

S2420

April 6, 2017

Joint Committee on Printing

RULES OF PROCEDURE

Mr. SHELBY. Mr. President, on April 6, 2017, the Joint Committee on Printing elected Senator Richard Shelby as chairman and Congressman Rodney Davis as vice chairman, and adopted committee rules for the 115th Congress. Members of the Joint Committee on Printing shall be the second Wednesday of each month when the House and Senate are in session. A regularly scheduled meeting need not be held if the subject matter is not significant enough to be considered and after appropriate notification is made to the Ranking Minority Member. Additional meetings may be called by the Chairman as may be necessary for or at the request of the majority or the minority of the Committee.

(a) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

(b) Three members shall constitute a quorum for purposes of taking testimony and receiving evidence.

RULE 1.—COMMITTEE RULES

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee’s rules shall be published in the Congressional Record as soon as possible after Committee approval.

(c) Where these rules require a vote of the members of the Committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a Committee meeting, unless the ranking minority member assents to waiver of this requirement.

(d) Proposals for amending Committee rules shall be sent to all members at least one week before final action is taken thereon, unless the amendment is made by unanimous consent.

JOINT COMMITTEE ON PRINTING

RULE 2.—REGULAR COMMITTEE MEETINGS

(a) The regular meeting date of the Committee shall be the second Wednesday of every month when the House and Senate are in session. A regularly scheduled meeting need not be held if the subject matter is not significant enough to be considered and after appropriate notification is made to the Ranking Minority Member. Additional meetings may be called by the Chairman as may be necessary for or at the request of the majority or the minority of the Committee.

(b) If the Chairman of the Committee is not present at any meeting of the Committee, the Vice-Chairman or Ranking Member of the majority party on the Committee who is present shall preside at the meeting.

(c) Five members of the Committee shall constitute a quorum, which is required for the purpose of closing meetings, promulgating Committee orders or changing the rules of the Committee.

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(b) No person other than members of the Committee, and such congressional staff and staff of the Committee, except that request of the individual, partnership, corporation or entity furnishing the same, be authorized by a Committee Member to make insertion or additional germane material shall be limited to brief summaries. Limited to the purpose of closing meetings, promulgating rules of the Committee.

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(b) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the staff director of the Committee shall receive in closed hearings shall not be released or included in any report without the approval of the Committee.

(c) Whenever a hearing is conducted by the Committee upon any measure or matter, the majority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of the hearings.

(d) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

RULE 6.—CONFIDENTIAL INFORMATION

The information contained in any books, papers or documents furnished to the Committee or any of its staff, or held by the Committee or the staff, shall be deemed confidential and shall not be released or included in any report without the approval of the Committee.

RULE 7.—PARLIAMENTARY QUESTIONS

Questions as to the order of business and the procedures of Committee shall be decided by the Chairman; subject always to an appeal to the Committee.

RULE 8.—HEARINGS: PUBLIC ANNOUNCEMENTS AND WITNESSES

(a) The Chairman, in the case of hearings to be conducted by the Committee, shall make public announcement thereof at least one week before the commencement of that hearing unless the Committee determines that there is good cause to begin such hearing at an earlier date. In the latter instance, the Chairman shall promptly notify the Daily Digest of the Congress and such public announcement shall be made on the earliest possible date. The staff director of the Committee shall promptly notify the Day Digest of the Congress and such public announcement shall be made on the earliest possible date.

(b) So far as practicable, all witnesses appearing before the Committee shall file a written statement of proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited to the purpose of transmission of the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

(c) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the Committee for its approval sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(d) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the staff director of the Committee shall receive in closed hearings shall not be released or included in any report without the approval of the Committee.

(e) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of the hearings.

(f) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

(g) So far as practicable, all witnesses appearing before the Committee shall file a written statement of proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited to the purpose of transmission of the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

(h) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the Committee for its approval sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(i) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the staff director of the Committee shall receive in closed hearings shall not be released or included in any report without the approval of the Committee.

(j) Whenever a hearing is conducted by the Committee upon any measure or matter, the minority on the Committee shall be entitled, upon unanimous request to the Chairman before the completion of such hearings, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of the hearings.

(k) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

(l) So far as practicable, all witnesses appearing before the Committee shall file a written statement of proposed testimony at least 48 hours in advance of their appearance and their oral testimony shall be limited to brief summaries. Limited to the purpose of transmission of the Committee. Testimony received in closed hearings shall not be released or included in any report without the approval of the Committee.

(m) Selection of witnesses for Committee hearings shall be made by the Committee staff under the direction of the Chairman. A list of proposed witnesses shall be submitted to the Committee for its approval sufficiently in advance of the hearings to permit suggestions by the Committee members to receive appropriate consideration.

(n) The Chairman shall provide adequate time for questioning of witnesses by all members, including minority Members and the staff director of the Committee shall receive in closed hearings shall not be released or included in any report without the approval of the Committee.
in connection with any pending hearing or as a part of a duly authorized report of the Committee if such release is deemed essential to the performance of the functions of the Committee and in the public interest.

**RULE 12.—BROADCASTING OF COMMITTEE HEARINGS**

The rule for broadcasting of Committee hearings shall be the same as Rule XI, clause 4, of the Rules of the House of Representatives.

**RULE 13.—COMMITTEE REPORTS**

(a) No Committee report shall be made public or transmitted to the Congress without the majority of the Committee except when Congress has adjourned: provided that any member of the Committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible.

(b) Factual reports by the Committee staff may be printed for distribution to Committee members and the public only upon authorization of the Chairman either with the approval of a majority of the Committee or with the consent of the Ranking Minority Member.

**RULE 14.—CONFIDENTIALITY OF COMMITTEE REPORTS**

No summary of a Committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the Committee or by any staff member of the Committee prior to the issuance of a report of the Committee.

**RULE 15.—COMMITTEE STAFF**

(a) The Committee shall have a staff director, selected by the Chairman. The staff director shall be an employee of the House of Representatives or of the Senate.

(b) The Ranking Minority Member may designate an employee of the House of Representatives or of the Senate as the minority staff director.

(c) The staff director, under the general supervision of the Chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the Committee.

(d) The Chairman or staff director shall timely notify the Ranking Minority Member or the minority staff director of decisions made on behalf of the Committee.

**RULE 16.—COMMITTEE CHAIRMAN**

The Chairman of the Committee may establish such procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee. Specifically, the Chairman is authorized, during the interim periods between meetings of the Committee, to act on all requests submitted by any executive department, independent agency, temporary or permanent commissions and committees of the Federal Government, the Government Publishing Office and any other Federal entity, pursuant to the requirements of applicable Federal law and regulations.

**REMEMBERING EDWARD “NICK” McMANUS**

Mr. GRASSLEY. Mr. President, today I wish to pay tribute to fellow Iowan Judge Edward “Nick” McManus. Judge McManus died earlier this month at the age of 97.

He was a long-time, deep history in Iowa politics and judicial activities.

When I first entered the State legislature, Judge McManus was known as Lieutenant Governor McManus. He also served in the Iowa Senate.

In 1962, President John F. Kennedy appointed him chief judge of the Northern District of Iowa where he served for 23 years when he took senior status. His ascension to this position made him the first non-Iowan to be appointed to the Federal Northern District Court of Iowa. He remained on the bench for a total of 55 years and was still taking cases at the time of his death.

He was proud of his service on the court and the modernization of the court he started in 1962.

Upon Judge McManus’s death, current acting U.S. Attorney Sean Berry told the Cedar Rapids Gazette, “The changes implemented by Judge McManus left an indelible and positive impact on the efficient administration of justice for all litigants in the federal court.”

He took great pride that the only time he had a backlog of cases was the first 100 that were there when he took the job. He took very seriously the Bill of Rights Sixth Amendment where it says “the accused shall enjoy the right to a speedy and public trial.”

His long-time friend, Deb Frank, may have said it best, “I know he loved to work. He loved what he was doing. I think it’s just the whole idea of coming to the office every day and doing what needed to be done.”

Barbara and I send our sincerest condolences to Judge McManus’s five sons, two step-sons, other family members, and friends.

He served our State and our country with great distinction and will be missed.

**102ND ANNUAL CONFERENCE OF THE WYOMING STATE SOCIETY, DAUGHTERS OF THE AMERICAN REVOLUTION**

Mr. ENZI. Mr. President, I appreciate having this opportunity to recognize the 102nd annual conference of the Wyoming State Society, Daughters of the American Revolution. This year’s conference is being held in Casper and once again promises to be an interesting, informative, and inspirational event.

In the years since the National Society Daughters of the American Revolution was founded on October 11, 1890, the organization has focused on the preservation and promotion of the ideals, principles, and values that are reflected in our Charters of Freedom—the Declaration of Independence, the Constitution and the Bill of Rights. They know what a great gift we have been given with our citizenship in the United States of America and they wanted to show their great pride in those who had fought for our freedom as a nation and won it.

With such a strong base on which to build, it is not surprising that the DAR continues to grow in size and influence. Year after year, more and more people are drawn to join the DAR and help to promote the principles and values of our Nation. That is why it is really no wonder that the DAR can now boast of over 185,000 members all over the world.

In Wyoming, that enthusiasm shows itself as each chapter continues to encourage its members to be more involved in the everyday workings of our government on the local, State, and national levels.

There is only one qualification for membership in the DAR. You must be able to trace your lineage back to the signers of our fight for freedom—a young nation took up arms to sever the ties between the United States and Great Britain.

Some member of your family must have been a part of our American Revolution for you to be accepted into the DAR as a member. It is then up to you to continue the work that a member of your family began.

That legacy has been handed down to the members of the DAR and to all of us as American citizens. It is also the legacy we will hand down to our children and grandchildren.

We recognize the members of the DAR and the difference all of you are making as individuals and as members of an organization that has been keeping the “Spirit of 76” alive for generations. The principles that are embodied in our Charters of Freedom have helped you to make a difference and that has helped to make our nation a better place for us all to live.

Thank you for the good work you do.

**ADDITIONAL STATEMENTS**

**TRIBUTE TO RANDY J. HOLLAND**

Mr. CARPER. Mr. President, it is with great pleasure that I rise today, on behalf of Delaware’s congressional delegation—Senator CARL B. DUBERSTEN, Congresswoman DEBBIE WASSERMAN SCHULTZ, and myself—to honor the exemplary service of Delaware Supreme Court Justice Randy J. Holland. His talent and expertise are admired by both Republicans and Democrats alike. Justice Holland was the youngest person to serve on the Delaware Supreme Court when he was appointed and confirmed by Delaware Governor Mike Castle in 1986. I had the honor of appointing him to a second 12-year term when I was Governor of Delaware in 1999. Then, in March 2011, he was reappointed again by Governor Markell and unanimously confirmed by the Senate for an unprecedented third 12-year term. His length on the Delaware Supreme Court—30 years and the longest in history—is a result of his broad knowledge of the law and of our State and the respect and professionalism he upholds on and off the bench.

Delaware’s supreme court has a reputation for handling complex disputes in a way that embodies fair, equitable, and expeditious decision-making. It is no doubt that Justice Holland was an integral part of making Delaware’s highest court one of the
most respected in the Nation and highly regarded internationally. Over the course of three decades, Justice Holland has written more than 700 opinions and several thousand orders and gained the reputation as an expert in Delaware constitutional law. He has done this all with a unique sense of humility and respect for others, something that fellow judges and attorneys have and will continue to emulate. He is the embodiment of the “Golden Rule,” always treating others the way he would like to be treated.

It is perhaps his homegrown knowledge of Delaware and his experience as a general practitioner of the law that allowed Justice Holland to make his mark in the Supreme Court. He grew up in Milford, DE, and went on to graduate from Swarthmore College, University of Pennsylvania Law School, and the University of Virginia Law School. Before joining the bench at age 39, Justice Holland was a partner at Morris, Nichols, Upshur, and Ruttenberg in Wilmington, DE, where he was known for his ability to draw clients from all over the State on issues ranging from corporate and contract law to zoning and real estate transactions. During this time, he had the opportunity to appear before almost every judge in every court of the State. It was this wide breadth of knowledge that made him an excellent choice for Delaware’s supreme court, even though he had no judicial experience at all.

Justice Holland’s colleagues describe him as a mentor and a role model and have relied on him throughout the years for his institutional knowledge of Delaware and the court. This especially came into practice during an unprecedented turnover in the Delaware Supreme Court. That turnover allowed Governor Jack Markell to appoint four justices, including the chief justice, to the five-officer court. Justice Holland’s ability and guidance to his colleagues throughout this transitional time proved vital as they became acclimated to their new roles.

When Justice Holland was not in his role as an officer of the court, he was writing. Regarded internationally as an author and historian, Justice Holland has written, coauthored, or edited nine books including “Delaware Supreme Court Golden Anniversary,” “Delaware Constitution of 1897,” “The First Hundred Years,” “Magica Carta: Muse & Mentor,” “Delaware’s Destiny Determined by Lewes,” and “Delaware Corporation Law, Selected Cases.” He has also published several law review articles, primarily dealing with judicial ethics and legal history.

Over his three decades on the Delaware Supreme Court, Justice Holland has received numerous awards, including the 2014 American Inns of Court Powell Award for Professionalism and Ethics, 2012 First State Distinguished Service Award, and the 2011 Dwight D. Opperman Award. In 2004, he was elected to be an Honorable Master of the Bench by Lincoln’s Inn in London. He was also recognized by members of our Nation’s highest court—Chief Justices William Rehnquist and John Roberts—when they appointed him as the State judge member of the Federal Judicial Conference Advisory Committee on Appellate Rules.

On behalf of Senator Coons and Congresswoman Blunt Rochester, let me express our heartfelt thanks to Justice Holland for his service to our State and judicial system. I am honored to be able to offer him our sincere congratulations on a job well done. It will be quite a change not to see him sitting on the second chair in from the left, but we look forward to hearing about the history and legacy of Delaware law. From our hearts, we wish him and his wife, Ilona, along with their son Ethan and daughter-in-law Jennifer and granddaughters Aurora and Charlie, happy healthy, and successful years to come.

REMEMBERING DR. THOMAS E. STARZL

Mr. CASEY. Mr. President, I rise to pay tribute to Dr. Thomas E. Starzl, the pioneer in the field of organ transplantation who impacted the lives of thousands directly and indirectly. Dr. Starzl died on March 4, 2017, 1 week shy of his 91st birthday.

To say Dr. Starzl was a remarkable surgeon, researcher, or physician does not begin to describe this man or the contributions he made. He was a visionary who transformed an entire field of medicine. He performed the first liver transplant in 1963, the first heart-liver transplant in 1984, and led a team conducting a five-organ transplant in 1987. In 2007, at the age of 80, Dr. Starzl visited with me to seek research funding for the hand transplant program at the University of Pittsburgh. He never stopped envisioning what more could be done or striving to achieve it.

The late Senator Robert F. Kennedy once said, “only those who dare to fail greatly can ever achieve greatly.” Dr. Starzl was not afraid to fail, and through his determination and the innovation and advances he brought forth, organ transplantation preserved human life, and the University of Pittsburgh became the busiest transplant center in the world. Knowing that the actual surgery is only one part of the success of a transplantation, Dr. Starzl worked to develop immunosuppressant therapies and played a role in creating tacrolimus, which remains the most widely used immunosuppressant therapies in the world. He believed that was his obligation to train the next generation of transplant surgeons. Today approximately 90 percent of transplant centers are headed by surgeons Dr. Starzl directly trained or by surgeons who learned from surgeons Dr. Starzl trained.

Over his decades of service, Dr. Starzl profoundly impacted many lives and families, including my own. Our family will always be grateful for the extraordinary care Dr. Starzl provided for my father, during his second term as Governor of Pennsylvania. In June of 1993, Dr. Starzl oversaw Governor Casey’s exceedingly rare heart and liver double transplant surgery. My family cherished the 7 additional years we had with my father.

Among the many accolades Dr. Starzl received was being ranked 231st in the book “1,000 Years, 1,000 People: Ranking the Men and Women Who Shaped the Millennium.” Published in 1998, this book named the people who had the greatest impact on the world over the previous 1,000 years. Dr. Starzl’s inclusion speaks to the enormous impact he had on so many lives. Dr. Starzl’s passing leaves a void, but we know the foundation he built for organ transplantation will endure. He truly inspired us. The surgeons he trained, and the high standards he set for quality of care. In the statement released by his family, it was noted that he “was a force of nature that swept all before him into his orbit, challenging those that surrounded him to strive to match his superhuman feats of focus, will and compassion.” His “superhuman feats” will remain an inspiration for those in the medical profession and beyond.

RECOGNIZING THE PEOPLE OF LIBBY, MONTANA

Mr. DAINES. Mr. President, this week I would like to recognize the people of Libby, MT, for their resiliency and strength in confronting economic, environmental, and public health challenges. This week is National Asbestos Awareness Week, and the people of Libby are perhaps the most acutely aware community in our Nation when it comes to understanding asbestos-related menaces. As the seat of Lincoln County, Libby has persevered through a complex process and removed threats to public health and has emerged ready to share the treasures of northwestern Montana.

A few miles outside of Libby, nearly a century ago, a vermiculite ore mine began operations. At one point, this mine accounted for a large portion of total global vermiculite production. Unknown to the people of Libby, the local vermiculite also contained a toxic form of asbestos. Libby is also home to the Libby mine which was eventually closed in 1990, and Libby was designated as a Superfund site by the Environmental Protection Agency in 2002. The asbestos identification and cleanup process has been exceedingly long and expensive. The EPA has spent $230 million dollars to date to clean up Libby, and the agency has been the only entity tasked with the cleanup.

The Libby mine area is a site of great interest for many reasons. It is also key to understanding the asbestos-related health effects that resulted from the Libby mine’s operations. The mine was operational until 1990, and the mine’s operations were closed in 1998 due to the dangers of asbestos exposure. The Libby mine area is home to one of the largest asbestos deposits in the world, and it is estimated that more than 2.5 million tons of asbestos were mined from the Libby mine area over the years.

Libby is home to a community that has been affected by asbestos-related health issues for decades. The people of Libby have faced significant challenges and have persevered through these difficult times. They have shown remarkable strength and resilience in the face of adversity. The Libby mine area continues to be a source of concern for many, and the community remains committed to addressing the environmental, health, and economic challenges associated with the mine.

Mr. CASEY. Mr. President, in 2002, Congress authorized the Environmental Protection Agency to implement a plan to address the environmental hazards associated with the Libby mine. The Libby mine was designated a Superfund site by the EPA in 2002. The asbestos identification and cleanup process has been ongoing since then, with the EPA working closely with the Libby community to ensure the safety and well-being of those living in the area.

The Libby mine area has been the subject of numerous environmental investigations, and the EPA has taken steps to address the health and environmental risks associated with the site. The Libby mine area is a site of significant interest for researchers, policymakers, and the public alike, and it serves as a reminder of the importance of addressing environmental hazards and ensuring the safety and well-being of communities affected by such issues.

Mr. DAINES. Mr. President, Libby’s resilience and determination in the face of these challenges are truly inspiring. The people of Libby have demonstrated remarkable strength and resilience in the face of adversity, and their story serves as an example for communities facing similar challenges. The Libby mine area continues to be a source of concern for many, and the community remains committed to addressing the environmental, health, and economic challenges associated with the mine. The EPA’s continued efforts to address the hazards associated with the Libby mine area are an important step towards ensuring the safety and well-being of those living in the area.
Eight years ago, former U.S. Senator Max Baucus led the charge to ensure that three essential functions were established to help the people of Libby. These functions included screening for asbestos-related diseases, healthcare for conditions caused by asbestos exposure, and a program to assist patients for conditions caused by asbestos exposure. These vital programs, specifically designed to help those most in need, are essential and must be preserved. With these tools available, over 4,000 Libbians have been screened and over 2,000 individuals have been diagnosed with asbestos-related diseases.

On March 6, I sent a letter to Speaker of the House Paul Ryan and Senate Majority Leader Mitch McConnell to preserve these tools for the people of Libby. The latency period for diseases related to asbestos exposure can be decades into the future. Long after the environmental and economic impacts have been overcome, the human impact in Libby will continue. As the debate over healthcare ebbs and flows, these essential protections for the people of Libby must remain intact.

The Center for Asbestos Related Disease, known locally as the CARD clinic, is a vital resource located in Libby that helps with identification, treatment, and research for those with asbestos exposure. The tools championed by Senator Baucus are vital to the success of a community resource like the CARD clinic. As the Senator who now serves the people of Montana from Senator Baucus’s old seat, it is my duty to continue to fight for the people of Libby.

To understand the impact these programs have on the daily lives of people in the area, it makes sense to listen to their personal experiences. Lynn Sather-Diller said the CARD clinic has helped “me to stay as healthy as possible even though I have an asbestos related disease. I wouldn’t be able to do it without the CARD.”

The basic activity of breathing, something many of us simply take for granted, is a daily concern and immense priority for those with asbestos-related diseases.

Angie Hill added, “Asbestos related disease is life changing. Hard to say in only a few words, our exposure started in our childhood & is so scary when you struggle to breath. We are thankful for the medical care & educational information the CARD center, Dr. Brad Black & his staff provide to it’s patients.”

These examples show the strength of the people of Libby. This region will continue to find ways to reach its potential. Like the rest of Montana, Libby is blessed with awe-inspiring beauty and immense natural resources. The Cabinet Mountain Range south of Libby has the majesty of a divine painting, and this masterpiece will always draw travelers to the region. The soon to open Montanore Mine will be a major producer of copper and silver.

The Kootenai National Forest contains significant timber resources. The Libby Dam is the east of town provides reliable energy, helping to empower the United States through energy dominance. The Kootenai River flows through that dam and is an engine of recreational activity, inviting outdoor enthusiasts from across the globe to explore the natural splendor of Lincoln County and gaze in wonder at the Kootenai Falls. As the people of Libby overcome the past and chart a course for the years ahead, I admire their resilient attitude and steadfast determination. While the hardy character and independent spirit of this small community in far Northwest Montana, we must not abandon our commitment to giving them a hand up and the tools necessary to succeed.

**RECOGNIZING FLATHEAD VALLEY COMMUNITY COLLEGE**

- **Mr. TESTER, Mr. President, today I wish to celebrate the 50th anniversary of Flathead Valley Community College in Kalispell, MT, and to honor the many contributions that FVCC has made in northwest Montana.**

In 1967, Dr. Larry Blake was hired as the first president of FVCC. Just a few months later, he opened the doors to 611 students who made up the very first class.

Fifty years later, over 3,500 students are enrolled in FVCC and studying more than 100 degree and certificate programs.

The campus today is unrecognizable to those who studied at its original downtown location, and in recent years, I have seen the new campus boom with the addition of additional education facilities, laboratories, and campus housing.

In 2001, Jane Karas was hired as the 11th president of FVCC, and she has been instrumental in the growth of the region’s largest higher education institution.

Under Jane Karas’s leadership, FVCC has expanded the nursing school and developed a renowned culinary school that has helped meet the growing demand for jobs in the communities that lay in the shadow of Glacier National Park.

In addition to serving thousands of students in Kalispell, FVCC operates a satellite campus an hour away in Libby, MT.

Over the past 50 years, FVCC has made a profound impact in Montana, and I join all of the Montanans who can’t wait to see what they have in store for the next 50 years.

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Ms. Ridgway, one of his secretaries.

**EXECUTIVE MESSAGES REFERRED**

In executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

**PRESIDENTIAL MESSAGE**

**REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY ORIGINALLY DECLARED IN EXECUTIVE ORDER 13336 ON APRIL 12, 2010 WITH RESPECT TO SOMALIA—PM 6**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the Federal Register for publication the enclosed notice stating that the national emergency declared in Executive Order 13336 of April 12, 2010, with respect to Somalia is to continue in effect beyond April 12, 2017. The United States is strongly committed to Somalia’s stabilization, and it is important to maintain sanctions against persons undermining its stability. For this reason, I have determined that it is necessary to continue the national emergency with respect to Somalia and to maintain in force the sanctions to respond to this threat.

DONALD J. TRUMP

THE WHITE HOUSE, April 6, 2017.

**MESSAGES FROM THE HOUSE**

At 10:02 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 544. An act to amend the Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 544. An act to amend the Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program, and for other purposes.
H.R. 1304. An act to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans.

H.R. 1304. An act to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1304. An act to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans; to the Committee on Health, Education, Labor, and Pensions.

H.R. 967. An act to amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy.

The message further announced that pursuant to 15 U.S.C. 78aa-1, and the order of the House of January 3, 2017, the Speaker appoints the following Member of the House of Representatives to the Congressional-Executive Commission on the People's Republic of China: Mr. Bass, Mr. California.

Enrolled Bill Signed

At 12:20 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 593. An act to improve the National Oceanic and Atmospheric Administration’s weather research through a focused program of investment on affordable and attainable advances. A bolstering, and modeling capabilities to support substantial improvement in weather forecasting and prediction of high impact weather events, to expand disaster preparedness opportunities for the provision of weather data, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. HATCH).

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 30. Joint resolution providing for the reappointment of Steve Case as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 35. Joint resolution providing for the appointment of Michael Govan as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 36. Joint resolution providing for the appointment of Roger W. Ferguson as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1219. An act to amend the Investment Company Act of 1940 to expand the investor limitation for qualifying venture capital funds under an exemption from the definition of an investment company.

At 3:03 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:


Reports of Committees

The following reports of committees were submitted:

By Mr. HOEVEN, from the Committee on Indian Affairs, without amendment:

S. 91. A bill to amend the Indian Employment, Training, and Services Demonstration Act of 1992 to facilitate the ability of Indian tribes to integrate the employment, training, and related services from diverse Federal sources, and for other purposes (Rept. No. 115–26).

S. 302. A bill to enhance tribal road safety, and for other purposes (Rept. No. 115–27).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. KLOBUCHAR (for herself and Mr. WICKERS):

S. 862. A bill to establish and strengthen projects that defray the cost of related instruction associated with pre-apprenticeship and apprenticeship programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WHITEHOUSE:

S. 863. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of funds under an exemption from the definition of investment on affordable and attainable advances, and for other purposes; to the Committee on Finance.

By Mrs. SHAHEEN (for herself and Mr. WICKERS):

S. 864. A bill to promote development goals and the strengthening of the private sector in Bosnia and Herzegovina; to the Committee on Foreign Relations.

By Mr. CASEY (for himself, Mr. WHITEHOUSE, Ms. HIRONO, Mr. FRANKEN, Mr. SCHUMER, Mr. MENENDEZ, Mr. REED, Mr. MERKLEY, Mr. DURBIN, Mrs. FENSTEIN, and Mr. VAN HOLLEN):

S. 865. A bill to amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CASEY (for himself and Mr. PAUL):

S. 866. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to eliminate the use of state and local court orders to secure lockup of status offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. DONNELLY (for himself, Mr. YOUNG, Mrs. FENSTEIN, Mr. CORNYN, Mr. BLUNT, and Mr. COONS):

S. 867. A bill to provide support for law enforcement agency efforts to protect the mental health and wellbeing of law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. ISAAKSON (for himself and Mr. MURPHY):


By Mr. PAUL (for himself and Mr. WICKERS):

S. 869. A bill to repeal the violation of sovereign nations’ laws and privacy matters; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. WYDEN, Mr. ISAACSON, Mr. WARNER, Mr. BENNET, Mr. CARDIN, Mr. THUNE, Mr. CASHY, Mr. CORNYN, Mr. CRAPO, Mr. GRASSLEY, Mr. CARPER, Ms. STABENOW, and Mrs. McCASKILL):

S. 870. A bill to amend title XVII of the Social Security Act to implement Medicare payment policies designed to improve management of chronic disease, streamline care coordination, and limit private sector lock-in and other provisions without adding to the deficit; to the Committee on Finance.

By Mr. HELLER:

S. 871. A bill to appropriate such funds as may be necessary to ensure that members of the Armed Forces, including reserve components thereof, and supporting civilian and contractor personnel continue to receive pay and allowances for active service performed when a funding gap caused by the failure to enact interim or full-year appropriations for the Armed Forces occurs, which results in the furlough of non-emergency personnel and the curtailment of Government activities and services; to the Committee on Appropriations.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Ms. STABENOW, Mrs. CAPTIO, Mrs. McCASKILL, Ms. BALDWIN, Mr. LEAHY, Mr. BENNET, Mr. MCCAIN, and Mr. GARDNER):

S. 872. A bill to amend title XVIII of the Social Security Act to implement permanent, the extension of the Medicare-dependent hospital (MDH) program and the increased payments under the Medicare low-volume hospital program; to the Committee on Finance.

By Mr. PORTMAN (for himself and Mr. CARPER):

S. 873. A bill to amend section 433 of title 5, United States Code, to provide for flexibility in making withdrawals from the Thrift Savings Fund; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MURPHY (for himself and Mr. BOOKER):

S. 874. A bill to amend title XIX of the Social Security Act to protect the enrollment of incarcerated youth for purposes of the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. SULLIVAN:

S. 875. A bill to require the Comptroller General of the United States to conduct a study and submit a report on filing requirements under the Unemployment Insurance program; to the Committee on Commerce, Science, and Transportation.

By Ms. HEITKAMP (for herself, Mr. INOUYE, Mr. HELLER, Mr. GATZ, Mr. HOEVEN, Ms. KLOBuchar, and Mr. UDALL):

S. 876. A bill to amend the Internal Revenue Code of 1986 to recognize Indian tribal governments for purposes of determining under the adoption credit whether a child has special needs; to the Committee on Finance.

By Mr. MARKEY (for himself and Mr. HATCH):
S. 877. A bill to amend the Family Educational Rights and Privacy Act of 1974 to ensure that student data handled by private companies is protected, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARKKU (for himself, Mr. BLUMENTHAL, Ms. WARREN, Mr. SANDERS, Mr. HARRIS, and Mr. HARKIN): S. 878. A bill to establish privacy protections for customers of broadband Internet access service and other telecommunications services; to the Committee on Commerce, Science, and Transportation.

By Mr. BARRASSO (for himself, Mr. FLAKE, Mr. MCCAIN, and Mr. ENZI): S. 879. A bill to expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. BALDWIN (for herself, Mr. BROWN, Mr. SANDERS, Mr. FRANKEN, Ms. WARNER, Mr. WHITEHOUSE, Ms. AKENY, and Mrs. MCCASKILL): S. 880. A bill to ensure the use of American iron and steel in public water systems, and for other purposes; to the Committee on Environment and Public Works.

By Ms. WARREN (for herself, Mr. MCCAIN, Ms. CANTWELL, and Mr. RYAN): S. 881. A bill to reduce risks to the financial system by limiting banks’ ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROUNDS (for himself, Mr. MANCHIN, Ms. WARNER, and Mr. KAYE): S. 882. A bill to amend title 38, United States Code, to provide for the entitlement to educational assistance under the Post-911 Educational Assistance Program of the Department of Veterans Affairs for members of the Armed Forces awarded the Purple Heart, and for other purposes; to the Committee on Veterans’ Affairs.

By Ms. MURKOWSKI (for herself and Mr. SULLIVAN): S. 883. A bill to provide for reforms of the administration of the outer Continental Shelf of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI: S. 884. A bill to amend the Omnibus Budget Reconciliation Act of 1993 to require the Bureau of Land Management to provide a claimant of a small miner waiver from claim maintenance fees with a period of 60 days after written receipt of 1 or more defects is provided to the claimant by registered mail to cure the 1 or more defects or pay the claim maintenance fee, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY (for himself and Mr. CARDIN): S. 885. A bill to amend the Internal Revenue Code of 1986 to include foster care transition youth as members of targeted groups for purposes of the work opportunity credit; to the Committee on Finance.

By Mr. DAINES (for himself and Mrs. MCCASKILL): S. 886. A bill to amend the Homeland Security Act of 2002 to establish an Advisory Review Board in the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DAINES (for himself and Mrs. MCCASKILL):
At the request of Mrs. CAPITO, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 413, a bill to amend title XVIII of the Social Security Act to prohibit prescription drug plan sponsors and MA–PD organizations under the Medicare program from retroactively reducing payment on clean claims submitted by pharmacies.

At the request of Mr. PAUL, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 545, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

At the request of Mr. COTTON, the name of the Senator from South Dakota (Mr. HOEVEN) was added as a cosponsor of S. 722, a bill to impose sanctions with respect to Iran in relation to Iran’s ballistic missile program, support for acts of international terrorism, and violations of human rights, and for other purposes.

At the request of Mr. WARNER, the name of the Senator from Montanta (Mr. TESTER) was added as a cosponsor of S. 796, a bill to amend the Immigration and Nationality Act to establish an H–2B temporary non-agricultural work visa program, and for other purposes.

At the request of Mr. THUNE, the name of the Senator from South Dakota (Mr. HOEVEN) was added as a cosponsor of S. 796, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion for employer-provided education assistance to employer payments of student loans.

At the request of Mr. RISCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 655, a bill to exempt certain 16- and 17-year-old individuals employed in logging operations from child labor laws.

At the request of Mr. DAINES, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 697, a bill to amend the Internal Revenue Code of 1986 to lower the mileage threshold for deduction in determining adjusted gross income of certain expenses of members of reserve components of the Armed Forces, and for other purposes.

At the request of Mr. B LUMENTHAL, the name of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 829, a bill to authorize the Assistance to Firefighters Grants program, the Fire Prevention and Safety Grants program, and the Staffing for Adequate Fire and Emergency Response grant program, and for other purposes.

At the request of Mr. MURPHY, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 835, a bill to require the Supreme Court of the United States to promulgate a code of ethics.

At the request of Mr. BLUMENTHAL, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 845, a bill to protect sensitive community locations from harmful immigration enforcement action, and for other purposes.

At the request of Mr. KAIN, the name of the Senator from New Hampshire (Ms. SHAHEEN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Oregon (Mr. MERKLEY), the Senator from New Jersey (Mr. BOOKER) and the Senator from Minnesota (Ms. KLUBacher) were added as cosponsors of S. Res. 59, a resolution expressing the sense of the Senate concerning the ongoing conflict in Syria as it reaches its six-year mark in March, the ensuing humanitarian crisis in Syria and neighboring countries, the resulting humanitarian and security challenges, and the urgent need for a political solution to the crisis.

At the request of Mr. WICKER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 106, a resolution expressing the sense of the Senate to support the territorial integrity of Georgia.

At the request of Mr. CARDIN, the names of the Senator from Colorado (Mr. GARDNER) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. Res. 114, a resolution expressing the sense of the Senate on humanitarian crises in Nigeria, Somalia, South Sudan, and Yemen.

At the request of Mr. McCAIN, the names of the Senator from Connecticut (Ms. MURPHY) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 829, a bill to authorize the Assistance to Firefighters Grants program, the Fire Prevention and Safety Grants program, and the Staffing for Adequate Fire and Emergency Response grant program, and for other purposes.
added as cosponsors of S. Res. 116, a resolution condemning the Assad regime for its continued use of chemical weapons against the Syrian people.

S. RES. 116

At the request of Ms. DUCKWORTH, her name was added as a cosponsor of S. Res. 116, a resolution condemning the Assad regime for using hate crime and any other form of racism, religious or ethnic bias, discrimination, incitement to violence, or animus targeting a minority in the United States.

STATISTICS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DAINES (for himself and Mrs. McCASKILL):

S. 886. A bill to amend the Homeland Security Act of 2002 to establish an Acquisition Review Board in the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DAINES. Mr. President, the Department of Homeland Security, DHS, is tasked with keeping Americans safe in the homeland. To carry out this mission, DHS spends over $7 billion on acquisition programs annually. DHS and its agencies are held to a high standard for keeping our Nation safe. We also must hold it to a high standard of fiscal responsibility. DHS must be good stewards of taxpayer resources.

The DHS acquisition process has long faced problems resulting in waste, delays, and under delivery of performance objectives. Since the inception of DHS, the Government Accountability Office, GAO, has highlighted challenges and offered recommendations to improve the acquisition process. There has been progress; however, there continues to be room for improvement. According to a GAO report released today, DHS’s acquisition process remains a high-risk issue, susceptible to cost overruns and schedule delays. These issues reduce buying power and force security employees to wait for new capabilities. This is not fair to those on the front lines tasked with keeping us safe and it is not fair to the American taxpayers.

I spent 28 years in the private sector. I know when tough business decisions need to be made, you convene a board that brings with it a breadth of experience and a deep understanding of strategic objectives and goals.

That is why I am introducing the OHS Acquisition Review Board Act of 2017. This legislation will create a review board within the Department to strengthen accountability and uniformity across all agencies and the entire acquisition process, ensure long term strategic objectives are met, and ensure the use of industry-proven best practices.

I thank Senator McCASKILL for being an original cosponsor of this bill and Representatives THOMAS GARRETT and MICHAEL McCaul for leading introduction of companion legislation in the House of Representatives. I ask my Senate colleagues to join us in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 886

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “DHS Acquisition Review Board Act of 2017”.

SEC. 2. ACQUISITION REVIEW BOARD.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following:

SEC. 836. ACQUISITION REVIEW BOARD.

(1) DEFINITIONS.—In this section:

(A) ACQUISITION.—The term ‘acquisition’ has the meaning given the term in section 310 of title 41, United States Code.

(B) ACQUISITION DECISION AUTHORITY.—The term ‘acquisition decision authority’ means the authority, held by the Secretary acting through the Deputy Secretary or Under Secretary for Management to—

(i) ensure compliance with Federal law, the Federal Acquisition Regulation, and Department acquisition management directives;

(ii) a non-major acquisition program requires review, as determined by the Under Secretary for Management; and

(iii) major acquisition programs.

(C) ACQUISITION DECISION EVENT.—The term ‘acquisition decision event’, with respect to an acquisition program, means a predetermined point within each of the acquisition phases at which the acquisition decision authority determines whether the acquisition program shall proceed to the next acquisition phase.

(D) ACQUISITION DECISION MONORANDUM.—The term ‘acquisition decision memorandum’, with respect to an acquisition program, means the official acquisition decision event record that includes a documented record of decisions, exit criteria, and assigned actions for the acquisition, as determined by the person exercising acquisition decision authority for the acquisition.

(2) ACQUISITION PROGRAM.—The term ‘acquisition program’ means the process by which the Department acquires, with any appropriated amounts, by contract for purchase or lease, property or services (including constructing or modifying infrastructure), to achieve the mission and goals of the Department.

(3) ACQUISITION PROGRAM Baseline.—The term ‘acquisition program baseline’, with respect to an acquisition program, means a summary of the cost, schedule, and performance parameters, expressed in standard, measurable, quantitative terms, which must be met in order to accomplish the goals of such program.

(B) BEST PRACTICES.—The term ‘best practices’ with respect to an acquisition program means a knowledge-based approach to capability development that includes—

(A) identifying and validating needs;

(B) assessing alternatives to select the most appropriate solution;

(C) clearly establishing well-defined requirements;

(D) developing realistic cost assessments and schedules;

(E) ensuring reliable funding that matches requirements to requirements;

(F) demonstrating technology, design, and manufacturing maturity;

(G) using milestones and exit criteria or specific accomplishments that demonstrate progress;

(H) adopting and executing standardized processes with known success across programs;

(I) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

(J) integrating the capabilities described in subparagraphs (A) through (I) into the mission and business operations of the Department.

(4) BOARD.—The term ‘Board’ means the Acquisition Review Board required to be established under subsection (b).

(5) MAJOR ACQUISITION PROGRAM.—The term ‘major acquisition program’ means a Department acquisition program that is estimated by the Secretary to require an eventual total expenditure of not less than $300,000,000 (based on fiscal year 2017 constant dollars) over the life cycle cost of the acquisition program.

(6) ESTABLISHMENT OF BOARD.—The Secretary shall establish an Acquisition Review Board to—

(A) strengthen accountability and uniformity within the Department acquisition review process;

(B) review major acquisition programs; and

(C) review the use of best practices.

(7) COMPOSITION.—

(A) CHAIRPERSON.—The Under Secretary for Management shall serve as chairperson of the Board.

(B) OTHER MEMBERS.—The Secretary shall ensure participation by other relevant Department officials, including not fewer than 2 component heads or their designees, as permanent members of the Board.

(8) MEETINGS.—

(A) REGULAR MEETINGS.—The Board shall meet regularly for purposes of ensuring all acquisitions processes proceed in a timely fashion to achieve mission readiness.

(B) OTHER MEETINGS.—The Board shall convene—

(i) at the discretion of the Secretary; and

(ii) at any time.

(I) a major acquisition program—

(ii) a non-major acquisition program requires review, as determined by the Under Secretary for Management.

(J) RESPONSIBILITIES.—The responsibilities of the Board are as follows:

(A) Determine whether a proposed acquisition meets the requirements of key phases of the life cycle framework and is able to proceed to the next phase and eventual full production and deployment.
“(2) Oversee whether the business strategy, resources, management, and accountability of a proposed acquisition is executable and is aligned to strategic initiatives.

“(3) Determine the person with acquisition decision authority for an acquisition in determining the appropriate direction for the acquisition at key acquisition decision events.

“(4) Conduct systematic reviews of acquisitions to ensure that the acquisitions are progressing in compliance with the approved documents for their current acquisition phases.

“(5) Review the acquisition documents of each major acquisition program, including the acquisition baseline and documentation reflecting consideration of trade-offs among cost, schedule, and performance objectives, to ensure the reliability of underlying data.

“(6) Ensure that practices are adopted and implemented to require consideration of trade-offs among cost, schedule, and performance objectives as part of the process for developing requirements for major acquisition programs prior to the initiation of the second acquisition decision event, including, at a minimum, the following practices:

“(A) Department officials responsible for acquisition, budget, and cost estimating functions are provided with the appropriate opportunity to review the cost and schedule matters before performance objectives are established for capabilities when feasible.

“(B) Full consideration is given to possible trade-offs among cost, schedule, and performance objectives for each alternative.

“(f) ACQUISITION PROGRAM BASELINE REPORT REQUIREMENT.—If the person exercising acquisition decision authority over a major acquisition program approves the major acquisition program to proceed into the planning phase before the major acquisition program has a Department-approved acquisition program baseline:

“(1) the Under Secretary for Management shall create and approve an acquisition program baseline report regarding such approval; and

“(2) the Secretary shall—

“(A) not later than 7 days after the date on which the acquisition decision memorandum is signed, notify in writing the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate of the decision; and

“(B) not later than 60 days after the date on which the acquisition decision memorandum is signed, submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report stating the rationale for such decision and a plan of action to require an acquisition program baseline for such program.

“(g) REPORT.—Not later than 1 year after the date of this section and every year thereafter through fiscal year 2022, the Under Secretary for Management shall provide information to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the activities of the Board for the prior fiscal year that includes information relating to the following:

“(1) For each meeting of the Board, any acquisition decision memorandum.

“(2) Results of the systematic reviews conducted under subsection (e)(4).

“(3) Results of acquisition document reviews required under subsection (e)(5).

“(4) Activities to ensure that practices are adopted and implemented throughout the Department under subsection (e)(6).”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 835 the following:

“Sec. 836. Acquisition Review Board.”.

By Mr. DAINES (for himself and Mrs. McCaskill):

S. 887 S. 887 provides that the Homeland Security Act of 2002 to require a multiyear acquisition strategy for the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs of the Senate.

Mr. DAINES. Mr. President, the Department of Homeland Security, DHS, is tasked with keeping Americans safe in the homeland. To carry out this mission, DHS spends over $7 billion on acquisition programs annually. DHS and its agencies are held to a high standard for keeping our Nation safe. We also must hold it to a high standard of fiscal responsibility. DHS must be good stewards of the taxpayers.

DHS’s acquisition process has long faced problems resulting in waste, delays, and under delivery of performance objectives. Since the inception of DHS, the Government Accountability Office, GAO, has highlighted challenges and offered recommendations to improve the acquisition process. There has been progress; however, there continues to be room for improvement. According to a GAO report release today, DHS’s acquisition process remains a high-risk issue, susceptible to cost overruns and schedules delays. These issues reduce buying power and force security employees to wait for new capabilities. This is not fair to those on the front lines keeping us safe, and it is not fair to the American taxpayers.

That is why I am introducing the DHS Multiyear Acquisition Strategy Act of 2017. This legislation will require DHS to develop a multiyear acquisition plan to guide the overall direction of the Department’s acquisitions, across all agencies, and include it annually in the Department’s budget request to Congress. It will create a Departmentwide prioritized list of investment, to ensure limited resources are being directed to the highest valued use.

This legislation will increase communication internal to DHS, as well as with industry and with academia, to help identify current capability gaps and future technological needs. It also includes private sector principles, such as developing incentives for program management, to incorporate cost, schedule, and capabilities goals. I have seen these principles work during my 28-year private sector career, and it is long past due that we apply them to government. We must move away from the “spend it or lose it” mentality of government budgeting.

I thank Senator Claire McCaskill for being an original cosponsor of this bill and Representatives Brian Fitzpatrick and Michael McCaul for leading introduction of companion legislation in the House of Representatives. I ask my Senate colleagues to join us in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 887

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “DHS Multiyear Acquisition Strategy Act of 2017”.

SEC. 2. MULTIYEAR ACQUISITION STRATEGY.

(a) IN GENERAL.—Subtitle D of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is amended by adding at the end the following:

“SEC. 836. MULTIYEAR ACQUISITION STRATEGY.

“(a) DEFINITIONS.—In this section:

“(1) ACQUISITION.—The term ‘acquisition’ has the meaning given the term in section 226(a).

“(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ has the meaning given the term in section 226(a).

“(3) BEST PRACTICES.—The term ‘best practices’, with respect to acquisition, means—

“(A) a knowledge-based approach to capability development that includes identifying and validating needs;

“(B) assessing alternatives to select the most appropriate solution;

“(C) clearly establishing well-defined requirements;

“(D) developing realistic cost assessments and schedules;

“(E) securing stable funding that matches resources to requirements;

“(F) demonstrating technology, design, and manufacturing maturity;

“(G) using milestones and exit criteria or specific accomplishments that demonstrate progress;

“(H) adopting and executing standardized processes with known success across programs;

“(I) establishing an adequate workforce that is qualified and sufficient to perform necessary functions; and

“(J) integrating the capabilities described in subparagraphs (A) through (I) into the mission and business operations of the Department.

“(4) COMPONENT ACQUISITION EXECUTIVE.—The term ‘component Acquisition Executive’ means the senior acquisition official within a component who is designated in writing by the Under Secretary for Management, in consultation with the component head, with authority and responsibility for leading a process and staff to provide acquisition and program management oversight, policy, and guidance to ensure the timely execution of regulatory, and higher level policy requirements are fulfilled, including compliance with Federal law, the Federal Acquisition Regulation, Department of Homeland Security acquisition management directives, and the acquisition management program directed by the Under Secretary for Management.

“(5) MAJOR ACQUISITION PROGRAM.—The term ‘major acquisition program’ means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of not less than $300,000,000 (based on fiscal year 2017 constant dollars) over the life cycle cost of the program.
The following:

The Department can improve the acquisition process to—

(A) reduce cost overruns;
(B) avoid schedule delays; and
(C) achieve cost savings in major acquisition programs.

(7) FOCUS ON ADDRESSING DELAYS AND BID PROTESTS.—An assessment of ways the Department can improve the acquisition process to address actions to ensure competition under subsection (e).

(8) FOCUS ON IMPROVING OUTREACH.—An identification of ways to increase opportunities for communication and collaboration with industry, small and disadvantaged businesses, and inter-agency executive functions. The Department shall—

(A) methods designed especially to engage small and disadvantaged businesses, a cost-benefit analysis of the tradeoffs that small and disadvantaged businesses provide, information relating to barriers to entry for small and disadvantaged businesses, and information relating to unique requirements of small and disadvantaged businesses, and
(B) within the Department Vendor Comptroller's Office, including—

(i) periodic system or program reviews to determine the effectiveness of the Department before engaging in an acquisition, including—

(A) requirements development;
(B) procurement announcements;
(C) requests for proposals;
(D) evaluations of proposals;
(E) protests of decisions and awards; and
(F) the use of best practices.

(9) COMPETITION.—A plan regarding competition under subsection (e).

(10) ACQUISITION WORKFORCE.—A plan regarding the Department acquisition workforce under subsection (f).

(11) REVIEW OF MULTIYEAR ACQUISITION STRATEGY.—The strategy required under subsection (b) shall include a plan to address Department acquisition workforce accountability and talent management that—

(A) identifies the acquisition workforce needs of each component performing acquisition functions;

(B) develops options for filling those needs with qualified individuals, including a cost-benefit analysis of contracting for acquisition assistance;

(2) ADDITIONAL MATTERS COVERED.—The acquisition workforce plan under this subsection shall address ways to—

(A) improve the recruitment, hiring, training, and retention of Department acquisition workforce personnel, including contracting officers' representatives, in order to retain highly qualified individuals who have experience in the acquisition life cycle, complex procurements, and management of large programs;

(B) empower program managers to have the authority to manage their programs in an accountable and transparent manner as such managers work with the acquisition workforce;

(C) prevent duplication within Department acquisition workforce training and certification requirements through leveraging existing training within the Federal Government, academic community, or private industry;

(D) achieve integration and consistency with Government-wide training and accreditation standards, acquisition training tools, and training facilities.

(E) designate the acquisition positions that will be necessary to support the acquisition requirements of the Department, including fields of—

(i) program management;

(ii) systems engineering;

(iii) procurement, including contracting; and

(iv) test evaluation;

(v) life cycle logistics;

(vi) cost estimating and program financial management; and

(vii) additional disciplines appropriate to the mission needs of the Department.

(F) strengthen the performance of contracting officers' representatives (as defined in 41 U.S.C. 3302 and subpart 2.301 of the Federal Acquisition Regulation), including by—

(i) assessing the extent to which those representatives are notified and receive training that is appropriate;

(ii) assessing what training is most effective with respect to the type and complexity of assignment; and

(iii) implementing actions to improve training based on those assessments; and

(G) identify ways to increase training for relevant investigators and auditors of the Department to examine fraud in major acquisition programs, including identifying opportunities to leverage existing Federal Government and private sector resources in coordination with the Inspector General of the Department.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 836 the following:

“Sec. 836. Multiyear acquisition strategy.”.

SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE REVIEW OF MULTIYEAR ACQUISITION STRATEGY.

(a) DEFINITIONS.—In this section—

(1) the terms “acquisition”, “best practices”, and “major acquisition program” have the meanings given in section 836 of the Homeland Security Act of 2002, as added by section 2 of this Act; and

(2) the term “acquisition workforce” means—

(A) the personnel performing acquisition-related functions.
(2) the term “Department” means the Department of Homeland Security.

(b) Review.—Not later than 180 days after the date on which the Secretary of Homeland Security submits the first multiyear acquisition strategy required under section 836 of the Homeland Security Act of 2002, as added by section 2 of this Act, after the date of enactment of this Act, the Comptroller General of the United States shall conduct a review of the strategy and analyze the viability of the effectiveness of the strategy in—

(1) complying with the requirements of such section 836;

(2) establishing clear connections between Department objectives and acquisition priorities;

(3) demonstrating that Department acquisition policy reflects program management best practices and standards;

(4) ensuring competition or the option of competition for major acquisition programs;

(5) considering potential cost savings through using existing technologies when developing acquisition program requirements;

(6) preventing duplication within Department acquisition workforce training requirements through leveraging already-existing training within the Federal Government, academic community, or private industry; and

(7) providing incentives for acquisition program managers to reduce acquisition and procurement costs through the use of best practices and disciplined program management.

(c) Report.—The Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the House of Representatives a report on the review conducted under subsection (a) or (b), which report shall be submitted in unclassified form but may include a classified annex.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 119—REQUIRING AUTHORIZING COMMITTEES TO HOLD ANNUAL HEARINGS ON GOVERNMENT ACCOUNTABILITY OFFICE INVESTIGATIVE REPORTS ON THE IDENTIFICATION, CONSOLIDATION, AND ELIMINATION OF DUPLICATIVE GOVERNMENT PROGRAMS

Mr. GARDNER (for himself and Mr. PETTERSON) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

Resolved, SECTION 1. SHORT TITLE. This resolution may be cited as the “Congressional Oversight to Start Taxpayer Savings Resolution” or the “COST Savings Resolution”.

SEC. 2. REQUIRING COMMITTEE HEARINGS ON GOVERNMENT ACCOUNTABILITY OFFICE REPORTS.

(a) Duplication Reports.—Not later than 90 days after the date on which the Comptroller General of the United States transmits each annual report to Congress identifying programs, agencies, offices, and initiatives with duplicative goals and activities within the Government under section 21 of the Joint Resolution entitled “Joint Resolution increasing the statutory limit on the public debt” (Public Law 111–139; 31 U.S.C. 712 note), each standing committee of the Senate (except the Committee on Appropriations) with jurisdiction over such program, agency, office, or initiative covered by that report shall conduct hearings on the recommendations for consolidation and elimination of such program, agency, office, or initiative.

(b) High Risk List.—Not later than 90 days after the date on which the Comptroller General of the United States publish a High Risk List, or any successor thereto, each standing committee of the Senate (except the Committee on Appropriations) with jurisdiction over any such program area on the High Risk List shall conduct hearings on the vulnerabilities to fraud, waste, abuse, and mismanagement, or need for transformation of that agency or program area.

(c) Joint Hearings.—For any program, agency, office, initiative, or program area covered by each annual report to Congress by the Government Accountability Office, the Chairmen of the committees, the Appropriations of the Senate (except the Committee on Appropriations) has jurisdiction, to the extent determined beneficial and appropriate by the Chairman of the committees may hold joint hearings under subsection (a) or (b).

SENATE RESOLUTION 120—DESIGNATING APRIL 20, 2017, AS “NATIONAL ALTERNATIVE FUEL VEHICLE DAY”

Mr. MANCHIN (for himself and Mrs. CAPITO) submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Senate—

(A) designates April 20, 2017, as “National Alternative Fuel Vehicle Day”;

(B) to promote public sector adoption of cleaner and energy-efficient alternative fuel vehicles and advanced technology vehicles;

(C) to encourage the adoption of Federal policies to reduce the dependence of the United States on foreign oil through the advancement and adoption of alternative, advanced, and emerging vehicle and fuel technologies.


Mr. MURPHY (for himself and Mr. BLUMENTHAL) submitted the following resolution; which was referred to the Committee on the Judiciary:

Resolved, That the Senate—

(A) acknowledges the critical role that the submarine fleet of the Navy has played and continues to play in the defense of the Nation; and

(B) recognizes the contribution of the submarine fleet to the defense and security of the United States.

That the Senate—

(A) designates April 11, 2017, as the National Alternative Fuel Vehicle Day as a day to promote programs and activities that will lead to the greater use of cleaner, more efficient transportation that uses new sources of energy; and

(B) urges the people of the United States—

(1) to increase the personal and commercial use of cleaner and energy-efficient alternative fuel vehicles and advanced technology vehicles; and

(2) to promote alternative fuel vehicles and advanced technology vehicles and advanced technology.

That the Senate—

(A) designates April 11, 2017, as “National Alternative Fuel Vehicle Day”;

(B) proclaims National Alternative Fuel Vehicle Day as a day to promote programs and activities that will lead to the greater use of cleaner, more efficient transportation that uses new sources of energy; and

(C) encourages the adoption of Federal policies to reduce the dependence of the United States on foreign oil through the advancement and adoption of alternative, advanced, and emerging vehicle and fuel technologies.

That the Senate—

(A) designates April 20, 2017, as “National Alternative Fuel Vehicle Day”;

(B) to promote public sector adoption of cleaner and energy-efficient alternative fuel vehicles and advanced technology vehicles;

(C) to encourage the adoption of Federal policies to reduce the dependence of the United States on foreign oil through the advancement and adoption of alternative, advanced, and emerging vehicle and fuel technologies.
AUTHORITY FOR COMMITTEES TO MEET

Mr. GARDNER. Mr. President, I have 7 requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to Rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Thursday, April 6, 2017, at 9:30 a.m.

COMMITTEE ON FINANCE

The Committee on Finance is authorized to meet during the session of the Senate on Thursday, April 6, 2017, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled “2017 Tax Filing Season: Internal Revenue Service Operations and the Taxpayer Experience.”

COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Thursday, April 6, 2017, at 11 a.m., to hold a business meeting.

COMMITTEE ON INTELLIGENCE

The Senate Select Committee on Intelligence is authorized to meet during the session of the 115th Congress of the U.S. Senate on Thursday, April 6, 2017, at 2 p.m., in room SH–219 of the Senate Hart Office Building.

SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY AND SECURITY

The Committee on Commerce, Science, and Transportation is authorized to hold a meeting during the session of the Senate on Thursday, April 6, 2017, at 10 a.m. in room 233 of the Russell Senate Office Building.

The Committee will hold Subcommittee Hearing on FAA Reauthorization: Perspectives on Rural Air Service and the General Aviation Community.

SUBCOMMITTEE ON REGULATORY AFFAIRS AND FEDERAL MANAGEMENT

The Subcommittee on Regulatory Affairs and Federal Management of the Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Thursday, April 6, 2017, at 10 a.m. in order to conduct a roundtable entitled, “Case Studies in Personnel Management Reform in Federal Agencies.”

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader and chairman of the Senate Committee on Armed Services, pursuant to the provisions of Public Law 114–328, appoints the following individuals to serve as members of the National Commission on Military, National, and Public Service: the Honorable Joseph Heck of Nevada and Steve Barney of Massachusetts.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following leader remarks on Friday, April 7, and notwithstanding rule XXII, there be 2 hours of debate equally divided in the usual form; further, that upon the use or yielding back of time, the Senate vote on the Gorsuch nomination with no intervening action or debate.

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

ORDERS FOR FRIDAY, APRIL 7, 2017

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, April 7; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; finally, that following leader remarks, the Senate resume executive session to consider the nomination of Neil Gorsuch, as under the previous order.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:05 p.m., adjourned until Friday, April 7, 2017, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

DAVID L. NORQUIST, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER), VICE MICHAEL J. MCCORD.

ERIC D. HARGAN, OF ILLINOIS, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE WILLIAM V. CORR, RESIGNED.

MAYRA DELBAHIM, OF CALIFORNIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE WILLIAM JOSEPH BAER, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ANDREW R. DAVIS

ZACHARY M. DRAEDEN

ALEX Y. BERNANDES

OLIVIA M. VAUGHAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ROBERT P. MCCOY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

GREGORY A. BURNS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

NICHOLAS A. LIPPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL N. TESFAY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MORGAN G. K. STEELE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RYAN W. ABNER

PATRICK J. DAVIDSON

ROWENA D. DACUMOS

ALEX Y. HERNANDEZ

ANDREW R. DAVIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CANDIDA K. DAVIS

KRISTEN D. CALDWELL

TAMARA N. BROWN

PINKY JAYNE BREWTON

JOANNA M. COOLEY

AMOUR G. DAVENPORT

JENNIFER R. HARDIN

MELISSA M. ANHALT

ELENA A. AMSPACHER

JASON D. DUNN

SHAUNTEL E. HAAS

TAMARA N. GRIMAUD

BRYAN M. HERSCH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CANDIDA K. DAVIS

KRISTEN D. CALDWELL

TAMARA N. BROWN

PINKY JAYNE BREWTON

JOANNA M. COOLEY

AMOUR G. DAVENPORT

JENNIFER R. HARDIN

MELISSA M. ANHALT

ELENA A. AMSPACHER

JASON D. DUNN

SHAUNTEL E. HAAS

TAMARA N. GRIMAUD

BRYAN M. HERSCH
THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C. SECTION 624.

To be lieutenant colonel

CHAD A. BELLAMY JOSHUA J. WENDELL
JASON M. BLACKMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C. SECTION 624.

To be major

JUSTINA OLIVIER BRYER HOOPER JENNY ELIZABETH OTTO
PETER J. HUMPHREY SARA B. SNYDER


To be colonel

JONATHAN EDWARD CARROLL SCOTT R. TONKO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C. SECTION 624.

To be lieutenant colonel

PATRICK J. JONES JAMES L. Hixon

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C. SECTION 624.

To be colonel

JAMIE R. CORRION PATRICK C. MULLIN

WASHINGTON, D.C., April 6, 2017

IN THE ARMY

The following named officers for appointment to the grade indicated in the United States Army under Title 10, U.S.C., Section 624:

- Joseph M. Kilonzo
  - To be colonel
  - Under Title 10, U.S.C., Section 624 and 3064:

- Jeffrey A. Miller
  - To be major

- Scott M. McFarland
  - To be lieutenant colonel

- Calvin R. Townsend
  - To be major

- Nina R. Copeland
  - To be colonel

- Michael A. Blackburn
  - To be major

In the Army

The following named officers for appointment to the grade indicated in the United States Army under Title 10, U.S.C., Section 624:

- Matthew P. Stoffel
  - To be colonel

- Brian M. Thompson
  - To be major

- Matthew P. Stoffel
  - To be lieutenant colonel

- Brian M. Thompson
  - To be lieutenant colonel

- Jason S. Wrachford
  - To be colonel

- Matthew P. Stoffel
  - To be colonel

- Matthew P. Stoffel
  - To be lieutenant colonel

The following named officers for appointment to the grade indicated in the United States Army under Title 10, U.S.C., Section 624:

- Rishi N. Mackenzie
  - To be colonel

- Michelle A. Matthews
  - To be colonel

- James M. Maxwell
  - To be colonel

- Ian W. Momomamin
  - To be major

- Justin G. Miller
  - To be major

- Jonathan T. Noda
  - To be major

- Jason T. Owen
  - To be major

- Phillip A. Ross
  - To be major

- Scott R. Sally
  - To be major

- Lester L. Sherborne III
  - To be major

- Skan M. Stanand
  - To be major

- Stephen B. Szalai
  - To be major

- Jacob A. Updike
  - To be major

- Joshua J. Whetlow
  - To be major

The following named officers for appointment to the grade indicated in the regular navy under Title 10, U.S.C., Section 624:

- Rachel L. Carter
  - To be lieutenant commander

- Ivan M. Gutierrez
  - To be lieutenant commander

- Kevin D. Keith
  - To be lieutenant commander

- Michael A. Winslow
  - To be lieutenant commander

- Michael A. Winslow
  - To be lieutenant commander

- Donald V. Wilson
  - To be lieutenant commander

- Clarence M. Bradley
  - To be lieutenant commander

- Alden J. L., U.S.C., Section 531:

- Jimmy J. Pavlicka
  - To be lieutenant commander

- Derek A. Thomas
  - To be lieutenant commander

- Natalie C. Gilliver
  - To be lieutenant commander

- Rendi C. Biscotti III
  - To be lieutenant commander

- Michaela Blais
  - To be lieutenant commander

- Pamela G. Wilson
  - To be lieutenant commander

- Conor B. Garry
  - To be lieutenant commander

- Andrew L. Middleton
  - To be lieutenant commander

- Randy K. Sulavy
  - To be lieutenant commander

- Adam J. Susmarski
  - To be lieutenant commander

- Donald V. Wilson
  - To be lieutenant commander

- Maura E. Labelle
  - To be lieutenant commander

- Michael A. Winslow
  - To be lieutenant commander

- John H. Sharp
  - To be lieutenant commander

- Brann S. Momm森
  - To be lieutenant commander

- Ivan M. Gutierrez
  - To be lieutenant commander

- Kevin D. Keith
  - To be lieutenant commander

- Michael A. Winslow
  - To be lieutenant commander

- Donald V. Wilson
  - To be lieutenant commander

- Clarence M. Bradley
  - To be lieutenant commander

- Jimmy J. Pavlicka
  - To be lieutenant commander

- Derek A. Thomas
  - To be lieutenant commander

- Natalie C. Gilliver
  - To be lieutenant commander

- Rendi C. Biscotti III
  - To be lieutenant commander

- Michaela Blais
  - To be lieutenant commander

- Pamela G. Wilson
  - To be lieutenant commander

- Conor B. Garry
  - To be lieutenant commander

- Andrew L. Middleton
  - To be lieutenant commander

- Randy K. Sulavy
  - To be lieutenant commander

- Adam J. Susmarski
  - To be lieutenant commander
Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2197–S2433

Measures Introduced: Eighty-one bills and fifteen resolutions were introduced, as follows: S. 807–887, S.J. Res. 40, S. Res. 109–121, and S. Con. Res. 12.

Measures Reported:

- S. 254, to amend the Native American Programs Act of 1974 to provide flexibility and reauthorization to ensure the survival and continuing vitality of Native American languages. (S. Rept. No. 115–23)

- S. 102, to direct the Federal Communications Commission to commence proceedings related to the resiliency of critical communications networks during times of emergency, with an amendment in the nature of a substitute. (S. Rept. No. 115–24)

- S. 91, to amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to facilitate the ability of Indian tribes to integrate the employment, training, and related services from diverse Federal sources. (S. Rept. No. 115–26)

- S. 302, to enhance tribal road safety. (S. Rept. No. 115–27)

Measures Passed:

- National Read Aloud Month: Committee on the Judiciary was discharged from further consideration of S. Res. 94, designating March 2017 as “National Read Aloud Month”, and the resolution was then agreed to.

- Alaska Purchase 150th Anniversary: Senate agreed to S. Res. 111, celebrating the 150th anniversary of the Alaska Purchase.

- Gold Star Wives Day: Senate agreed to S. Res. 112, designating April 5, 2017, as “Gold Star Wives Day”.

- University of Washington Center on Human Development and Disability 50th Anniversary: Senate agreed to S. Res. 113, recognizing and celebrating the 50th anniversary of the Center on Human Development and Disability at the University of Washington in Seattle, Washington.

- National Park Week: Senate agreed to S. Res. 117, designating the week of April 15, 2017, through April 23, 2017, as “National Park Week”.

- Condemning Hate Crime: Senate agreed to S. Res. 118, condemning hate crime and any other form of racism, religious or ethnic bias, discrimination, incitement to violence, or animus targeting a minority in the United States.

Appointments:

- National Commission on Military, National, and Public Service: The Chair, on behalf of the Majority Leader and Chairman of the Senate Committee on Armed Services, pursuant to the provisions of Public Law 114–328, appointed the following individuals to serve as members of the National Commission on Military, National, and Public Service: Joseph Heck of Nevada and Steve Barney of Massachusetts.

Message from the President: Senate received the following message from the President of the United States:

- Transmitting, pursuant to law, a report on the continuation of the national emergency originally declared in Executive Order 13536 on April 12, 2010 with respect to Somalia; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–6)

Gorsuch Nomination—Cloture: Senate began consideration of the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

Prior to the consideration of this nomination, Senate took the following action:

- Senate agreed to the motion to proceed to Legislative Session.
By 55 yeas to 44 nays (Vote No. 104), Senate agreed to the motion to proceed to executive session to consider the nomination.

During consideration of this nomination today, Senate also took the following action:

By 55 yeas to 45 nays (Vote No. 105), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the nomination.

By 55 yeas to 45 nays (Vote No. 106), Senate agreed to the motion to reconsider the vote on the motion to invoke cloture on the nomination.

By 48 yeas to 52 nays (Vote No. 107), Senate rejected the motion to postpone the vote on the motion to invoke cloture, upon reconsideration, on the nomination until 3 p.m., on Monday, April 24, 2017.

By 48 yeas to 52 nays (Vote No. 108), Senate rejected the motion to adjourn until 5 p.m., on Thursday, April 6, 2017.

By 48 yeas to 52 nays (Vote No. 109), Senate rejected the ruling of the Chair that under precedent set by the Senate on November 21, 2013, the cloture vote for nominations for the Supreme Court is not by majority vote. Subsequently, Senator McConnell motion to appeal the ruling of the Chair was upheld.

By 55 yeas to 45 nays (Vote No. 110), Senate upon reconsideration agreed to the motion to close further debate on the nomination.

A motion was entered to close further debate on the nomination, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Thursday, April 6, 2017.

A unanimous-consent agreement was reached providing for further consideration of the nomination at approximately 9:30 a.m., on Wednesday, April 5, 2017; that the debate time on the nomination during Wednesday’s session of the Senate be divided as follows: following Leader remarks until 11 a.m. be equally divided, that the time from 11 a.m. until 12 noon be under the control of the Majority; that the time from 12 noon until 1 p.m. be under the control of the Minority; and that the debate time until 9 p.m., on Wednesday be divided in one hour alternating blocks.

A unanimous-consent agreement was reached providing for further consideration of the nomination at approximately 10 a.m., on Thursday, April 6, 2017; that the time until the vote on the motion to invoke cloture on the nomination be equally divided between Senators Grassley and Feinstein, or their designees.

A unanimous-consent-time agreement was reached providing for further consideration of the nomination at approximately 9:30 a.m., on Friday, April 7, 2017; and that notwithstanding Rule XXII, there be two hours for debate, equally divided in the usual form; and that upon the use or yielding back of time, Senate vote on confirmation of the nomination, with no intervening action or debate.

**Perdue Nomination—Agreement:** A unanimous-consent agreement was reached providing that following Leader remarks on Monday, April 24, 2017, Senate begin consideration of the nomination of Sonny Perdue, of Georgia, to be Secretary of Agriculture; that the time until 5:30 p.m. be equally divided in the usual form, and that at 5:30 p.m., Senate vote on confirmation of the nomination, with no intervening action or debate.

**Nomination Confirmed:** Senate confirmed the following nomination:

By 85 yeas to 14 nays (Vote No. EX. 103), Elaine C. Duke, of Virginia, to be Deputy Secretary of Homeland Security.

**Nominations Received:** Senate received the following nominations:

- Sigal Mandelker, of New York, to be Under Secretary for Terrorism and Financial Crimes.
- Heath P. Tarbert, of Maryland, to be an Assistant Secretary of the Treasury.
- Routine lists in the Air Force, Army, Marine Corps, and Navy.
- David L. Norquist, of Virginia, to be Under Secretary of Defense (Comptroller).
- Eric D. Hargan, of Illinois, to be Deputy Secretary of Health and Human Services.
- Makan Delrahim, of California, to be an Assistant Attorney General.

**Routine lists in the Air Force, Army, and Navy.**

**Messages From the House:**

**Measures Referred:** Pages S2214, S2360, S2423–24

**Measures Read the First Time:** Pages S2360, S2371

**Executive Communications:** Pages S2360–61

**Petitions and Memorials:** Pages S2360–61

**Executive Reports of Committees:** Pages S2214, S2362, S2424

**Additional Cosponsors:** Pages S2215–16, S2364–65, S2425–27

**Statements on Introduced Bills/Resolutions:** Pages S2216–20, S2365–68, S2427–30

**Additional Statements:** Pages S2213–14, S2360, S2421–23
Authorities for Committees to Meet: Pages S2220, S2371

Record Votes: Eight record votes were taken today. (Total—110) Pages S2189–90, S2389–90

Adjournment: Senate convened at 10 a.m. on Tuesday, April 4, 2017, and adjourned at 7:05 p.m. on Thursday, April 6, 2017, until 9:30 a.m. on Friday, April 7, 2017. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S2431.)

Committee Meetings

(Committees not listed did not meet)

NATIONAL WATER HAZARDS AND VULNERABILITIES

Committee on Appropriations: Subcommittee on Commerce, Justice, Science, and Related Agencies concluded a hearing to examine national water hazards and vulnerabilities, focusing on improved forecasting for responses and mitigation, after receiving testimony from Louis Uccellini, Assistant Administrator, Weather Services, National Oceanic and Atmospheric Administration, and Director, National Weather Service; Bryan Koon, Florida Division of Emergency Management Director, Tallahassee; Antonio Busalacchi, University Corporation for Atmospheric Research, Boulder, Colorado; and Mary Glackin, The Weather Company, IBM, Washington, D.C.

U.S. STRATEGIC COMMAND

Committee on Armed Services: Committee concluded a hearing to examine United States Strategic Command programs, after receiving testimony from General John E. Hyten, USAF, Commander, United States Strategic Command, Department of Defense.

CYBER THREATS TO THE U.S.

Committee on Armed Services: Subcommittee on Cybersecurity received a closed briefing on cyber threats to the United States from Kate Charlet, Performing the duties of Deputy Assistant Secretary for Cyber Policy, Brigadier General Mary F. O’Brien, USAF, Director of Intelligence, United States Cyber Command, and Major General Ed Wilson, Deputy Principal Cyber Advisor, Office of the Secretary, all of the Department of Defense; Samuel Liles, Director, Cyber Analysis Division, Office of Intelligence and Analysis, and Neil Jenkins, Director, Enterprise Performance Management Office, National Protection and Programs Directorate, both of the Department of Homeland Security; and Tonya L. Ugoretz, Director, Cyber Threat Intelligence Integration Center, Office of the Director of National Intelligence.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the nomination of Jay Clayton, of New York, to be a Member of the Securities and Exchange Commission.

MULTIMODAL FREIGHT POLICY AND INFRASTRUCTURE

Committee on Commerce, Science, and Transportation: Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security concluded a hearing to examine keeping goods moving, focusing on continuing to enhance multimodal freight policy and infrastructure, after receiving testimony from Derek J. Leathers, Werner Enterprises, and Lance M. Fritz, Union Pacific Corporation, both of Omaha, Nebraska; Michael L. Ducker, FedEx Freight Corporation, Memphis, Tennessee; and James Pelliccio, Port Newark Container Terminal, Newark, New Jersey, on behalf of the Coalition for America’s Gateways and Trade Corridors.

CYBERSECURITY THREATS

Committee on Energy and Natural Resources: Committee concluded a hearing to examine efforts to protect United States energy delivery systems from cybersecurity threats, after receiving testimony from Patricia Hoffman, Acting Assistant Secretary, Office of Electricity Delivery and Energy Reliability, and Andrew A. Bochman, Senior Cyber and Energy Strategist, National and Homeland Security, Idaho National Laboratory, both of the Department of Energy; Colonel Gent Welsh, Commander, 194th Wing, Washington Air National Guard, Camp Murray; Gerry W. Cauley, North American Electric Reliability Corporation, and Dave McCurdy, American Gas Association, both of Washington, D.C.; and Duane D. Highley, Arkansas Electric Cooperative Corporation, Littlerock, on behalf of the National Rural Electric Cooperative Association.

THE EU AS A PARTNER AGAINST RUSSIAN AGGRESSION

Committee on Foreign Relations: Committee concluded a hearing to examine the European Union as a partner against Russian aggression, focusing on sanctions, security, democratic institutions, and the way forward, after receiving testimony from David O’Sullivan, European Union Delegation to the United States of America, and Kurt Volker, Arizona State University McCain Institute for International Leadership, both of Washington, D.C.; and Daniel B. Baer, former Ambassador to the Organization for Security and Cooperation in Europe, Denver, Colorado.
SOUTHWEST BORDER FENCING
Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine fencing along the southwest border, after receiving testimony from David V. Aguilar, former Acting Commissioner, and Ronald S. Colburn, former Deputy Chief, Border Patrol, both of Customs and Border Protection, Department of Homeland Security; and Terence M. Garrett, The University of Texas Rio Grande Valley Public Affairs and Security Studies Department, Brownsville.

FDA USER FEE AGREEMENTS
Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine FDA user fee agreements, focusing on improving medical product regulations and innovation for patients, after receiving testimony from Kay Holcombe, Bio-technology Innovation Organization, David R. Gaugh, Association for Accessible Medicines, Scott Whitaker, AvaMed, and Cynthia A. Bens, Alliance for Aging Research, all of Washington, D.C.

INTELLIGENCE
Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

INTELLIGENCE
Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.
Committee recessed subject to the call.

House of Representatives

Chamber Action
Public Bills and Resolutions Introduced: 63 public bills, H.R. 1902–1964; and 5 resolutions, H.J. Res. 94; H. Con. Res. 47; and H. Res. 249–251, were introduced.

Additional Cosponsors:

Report Filed: A report was filed today as follows:
H.R. 1667, to amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy (H. Rept. 115–80).

Speaker: Read a letter from the Speaker wherein he appointed Representative Webster (FL) to act as Speaker pro tempore for today.

Recess: The House recessed at 10:49 a.m. and reconvened at 12 noon.

Supporting America's Innovators Act of 2017—Rule for Consideration: The House agreed to H. Res. 242, providing for consideration of the bill (H.R. 1219) to amend the Investment Company Act of 1940 to expand the investor limitation for qualifying venture capital funds under an exemption from the definition of an investment company, by a recorded vote of 231 yeas to 182 nays, Roll No. 217.

Suspensions: The House agreed to suspend the rules and pass the following measures:

Financial Institution Bankruptcy Act of 2017: H.R. 1667, amended, to amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy; and

Amending Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program: S. 544, to amend Veterans Access, Choice, and Accountability Act of 2014 to modify the termination date for the Veterans Choice Program.

Question of Privilege: Representative Jeffries rose to a question of the privileges of the House and submitted a resolution. The Chair ruled that the resolution did not present a question of the privileges of the House. Subsequently, Representative Jeffries appealed the ruling of the chair and Representative Foxx moved to table the appeal. Agreed to the motion to table the appeal of the ruling of the Chair by a yea-and-nay vote of 228 yeas to 185 nays with 2 answering “present”, Roll No. 219.

Self-Insurance Protection Act: The House passed H.R. 1304, to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to exclude from the definition of health insurance coverage certain medical stop-loss insurance obtained by certain plan sponsors of group health plans, by a yea-and-nay vote of 400 yeas to 16 nays, Roll No. 220.
Pursuant to the Rule, the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted.

H. Res. 241, the rule providing for consideration of the bill (H.R. 1304) was agreed to yesterday, April 4th.

Meeting Hour: Agreed by unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, April 6.

House Democracy Partnership—Appointment: Read a letter from Representative Pelosi, Minority Leader, in which she appointed the following Members to the House Democracy Partnership: Representative Price (NC), Ranking Member; Representatives Ellison, Davis (CA), Moore, Titus, Roybal-Allard, Connolly, Ted Lieu (CA), and Torres.

Congressional-Executive Commission on the People’s Republic of China—Appointment: The Chair announced the Speaker’s appointment of the following Member on the part of the House to the Congressional-Executive Commission on the People’s Republic of China: Representative Ted Lieu (CA).

Discharge Petition: Representative Eshoo presented to the clerk a motion to discharge the Committees on Ways and Means and Oversight and Government Reform from the consideration of H.R. 305, to amend the Ethics in Government Act of 1978 to require the disclosure of certain tax returns by Presidents and certain candidates for the office of the President, and for other purposes (Discharge Petition No. 1).

Quorum Calls—Votes: Three yea-and-nay votes and one recorded vote developed during the proceedings of today and appear on pages H2720–21, H2721, H2731, and H2731–32. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 6:28 p.m.

Committee Meetings

AGRICULTURE AND TAX REFORM: OPPORTUNITIES FOR RURAL AMERICA
Committee on Agriculture: Full Committee held a hearing entitled “Agriculture and Tax Reform: Opportunities for Rural America”. Testimony was heard from James M. Williamson, Economist, Economic Research Service, Department of Agriculture; and public witnesses.

FEDERAL RESPONSE TO THE OPIOID ABUSE CRISIS
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing entitled “Federal Response to the Opioid Abuse Crisis”. Testimony was heard from Barbara Cimaglio, Deputy Commissioner, Vermont Department of Health; and public witnesses.

CONSEQUENCES TO THE MILITARY OF A CONTINUING RESOLUTION
Committee on Armed Services: Full Committee held a hearing entitled “Consequences to the Military of a Continuing Resolution”. Testimony was heard from General David L. Goldfein, Chief of Staff, U.S. Air Force; General Mark A. Milley, Chief of Staff, U.S. Army; General Robert B. Neller, Commandant of the Marine Corps; and Admiral John M. Richardson, Chief of Naval Operations, U.S. Navy.

THE CURRENT STATE OF THE U.S. MARINE CORPS
Committee on Armed Services: Subcommittee on Readiness held a hearing entitled “The Current State of the U.S. Marine Corps”. Testimony was heard from the following officials from U.S. Marine Corps Headquarters: Lieutenant General Ronald L. Bailey, Deputy Commandant for Plans, Policies, and Operations; Lieutenant General Michael G. Dana, Deputy Commandant for Installations and Logistics; and William E. Taylor, Assistant Deputy Commandant for Aviation.

LEGISLATIVE MEASURE
Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing on H.R. 1180, the “Working Families Flexibility Act of 2017”. Testimony was heard from public witnesses.

FACILITATING THE 21ST CENTURY WIRELESS ECONOMY
Committee on Energy and Commerce: Subcommittee on Communications and Technology held a hearing entitled “Facilitating the 21st Century Wireless Economy”. Testimony was heard from public witnesses.

THE 2016 SEMI-ANNUAL REPORTS OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION
Committee on Financial Services: Full Committee held a hearing entitled “The 2016 Semi-Annual Reports of the Bureau of Consumer Financial Protection”. Testimony was heard from Richard Cordray, Director, Consumer Financial Protection Bureau.
TURKEY’S DEMOCRACY UNDER CHALLENGE

Committee on Foreign Affairs: Subcommittee on Europe, Eurasia, and Emerging Threats held a hearing entitled “Turkey’s Democracy Under Challenge”. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURE

Committee on Homeland Security: Full Committee held a markup on H. Res. 235, directing the Secretary of Homeland Security to transmit certain documents to the House of Representatives relating to the Department of Homeland Security’s research, integration, and analysis activities relating to Russian Government interference in the elections for Federal office held in 2016. H. Res. 235 was ordered reported, without amendment.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Full Committee held a markup on H.R. 1842, the “Strengthening Children’s Safety Act of 2017”; H.R. 1862, the “Global Child Protection Act of 2017”; and H.R. 659, the “Standard Merger and Acquisition Reviews Through Equal Rules Act of 2017”. H.R. 1842, H.R. 1862, and H.R. 659 were ordered reported, without amendment.

LEGISLATIVE MEASURE

Committee on Natural Resources: Subcommittee on Energy and Mineral Resources held a hearing on H.R. 1731, the “Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act of 2017”. Testimony was heard from Representative Rogers of Alabama and public witnesses.

LEGISLATIVE MEASURES

Committee on Natural Resources: Subcommittee on Federal Lands held a hearing on H.R. 218, the “King Cove Road Land Exchange Act”; H.R. 497, the “Santa Ana River Wash Plan Land Exchange Act”; H.R. 1157, to clarify the United States interest in certain submerged lands in the area of the Monomoy National Wildlife Refuge, and for other purposes; and H.R. 1728, to modify the boundaries of the Morley Nelson Snake River Birds of Prey National Conservation Area, and for other purposes. Testimony was heard from Representatives Young of Alaska; Simpson; Keating; Cook; and Aguilar; Seth T. Taylor, Selectman, Chatham, Massachusetts; and public witnesses.

OVERSIGHT OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY’S RESPONSE TO THE BATON ROUGE FLOOD DISASTER: PART II

Committee on Oversight and Government Reform: Full Committee held a hearing entitled “Oversight of the Federal Emergency Management Agency’s Response to the Baton Rouge Flood Disaster: Part II”. Testimony was heard from John Bel Edwards, Governor, Louisiana; Robert J. Fenton, Jr., Acting Administrator, Federal Emergency Management Agency; Mark Harrell, Emergency Coordinator, Livingston Parish, Louisiana; and a public witness.

IMPROVING THE VISITOR EXPERIENCE AT NATIONAL PARKS

Committee on Oversight and Government Reform: Subcommittee on the Interior, Energy and Environment held a hearing entitled “Improving the Visitor Experience at National Parks”. Testimony was heard from Glenn Casamassa, Associate Deputy Chief, National Forest System, Forest Service, Department of Agriculture; Linda Lanterman, Director, Division of State Parks, Kansas; and public witnesses.

ASSESSING THE IRAN DEAL

Committee on Oversight and Government Reform: Subcommittee on National Security held a hearing entitled “Assessing the Iran Deal”. Testimony was heard from public witnesses.

TAKING CARE OF SMALL BUSINESS: WORKING TOGETHER FOR A BETTER SBA

Committee on Small Business: Full Committee held a hearing entitled “Taking Care of Small Business: Working Together for a Better SBA”. Testimony was heard from Linda McMahon, Administrator, Small Business Administration.

FAST ACT IMPLEMENTATION: STATE AND LOCAL PERSPECTIVES

Committee on Transportation and Infrastructure: Subcommittee on Highways and Transit held a hearing entitled “FAST Act Implementation: State and Local Perspectives”. Testimony was heard from public witnesses.

LEGISLATIVE MEASURES

Committee on Veterans’ Affairs: Subcommittee on Disability Assistance and Memorial Affairs held a hearing on H.R. 105, the “Protect Veterans from Financial Fraud Act of 2017”; H.R. 299, the “Blue Water Navy Vietnam Veterans Act of 2017”; H.R. 1328, the “American Heroes COLA Act of 2017”; H.R. 1329, the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2017”; H.R. 1390, to amend
title 38, United States Code, to authorize the Secretary of Veterans Affairs to pay costs relating to the transportation of certain deceased veterans to veterans’ cemeteries owned by a State or tribal organization; H.R. 1564, the “VA Beneficiary Travel Act of 2017”; and a draft bill entitled “Quicker Veterans Benefits Delivery Act of 2017”. Testimony was heard from Representatives Bost; Brownley of California; Banks of Indiana; Bergman; and Valadao; Beth Murphy, Director, Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs; and public witnesses.

Joint Meetings
No joint committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D379)
H.R. 1228, to provide for the appointment of members of the Board of Directors of the Office of Compliance to replace members whose terms expire during 2017. Signed on April 3, 2017. (Public Law 115–19)
H.J. Res. 83, disapproving the rule submitted by the Department of Labor relating to “Clarification of Employer’s Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness”. Signed on April 3, 2017. (Public Law 115–21)
S.J. Res. 34, providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Federal Communications Commission relating to “Protecting the Privacy of Customers of Broadband and Other Telecommunications Services”. Signed on April 3, 2017. (Public Law 115–22)

COMMITTEE MEETINGS FOR WEDNESDAY, APRIL 5, 2017
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Appropriations: Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, to hold hearings to examine protecting our midshipmen, focusing on preventing sexual assault and sexual harassment at the U.S. Merchant Marine Academy, 10 a.m., SD–192.
Committee on Department of Defense, to hold closed hearings to examine intelligence programs and threat assessment, 10:30 a.m., SVC–217.
Committee on Banking, Housing, and Urban Affairs: Subcommittee on Economic Policy, to hold hearings to examine the current state of retirement security in the United States, 3 p.m., SD–538.
Committee on Commerce, Science, and Transportation: business meeting to consider pending calendar business, 10 a.m., SH–216.
Committee on Environment and Public Works: business meeting to consider proposed legislation entitled, “Wildlife Innovation and Longevity Driver (WILD) Act”, S. 518, to amend the Federal Water Pollution Control Act to provide for technical assistance for small treatment works, S. 692, to provide for integrated plan permits, to establish an Office of the Municipal Ombudsman, to promote green infrastructure, and to require the revision of financial capability guidance, and S. 675, to amend and reauthorize certain provisions relating to Long Island Sound restoration and stewardship, 10 a.m., SD–406.
Committee on Foreign Relations: Subcommittee on Africa and Global Health Policy, to hold hearings to examine a progress report on conflict minerals, 2 p.m., SD–419.
Committee on Health, Education, Labor, and Pensions: to hold hearings to examine the nomination of Scott Gottlieb, of Connecticut, to be Commissioner of Food and Drugs, Department of Health and Human Services, 10 a.m., SD–430.
Committee on Homeland Security and Governmental Affairs: to hold hearings to examine improving border security and public safety, 9:30 a.m., SD–342.

House
Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled “Examination of the Federal Financial Regulatory System and Opportunities for Reform”, 9:15 a.m., 2128 Rayburn.
Committee on Small Business, Full Committee, hearing entitled “Scam Spotting: Can the IRS Effectively Protect Small Business Information?”, 10 a.m., 2360 Rayburn.
Committee on Veterans’ Affairs, Subcommittee on Health, markup on H.R. 91, the “Building Supportive Networks for Women Veterans Act”; H.R. 95, the “Veterans’ Access to Child Care Act”; H.R. 467, the “VA Scheduling
Accountability Act”; H.R. 907, the “Newborn Care Improvement Act”; H.R. 918, the “Veteran Urgent Access to Mental Healthcare Act”; H.R. 1005, to amend title 38, United States Code, to improve the provision of adult day health care services for veterans; H.R. 1162, the “No Hero Left Untreated Act”; H.R. 1545, the “VA Prescription Data Accountability Act 2017”; H.R. 1662, to amend title 38, United States Code, to prohibit smoking in any facility of the Veterans Health Administration, and for other purposes; and H.R. 1848, the “Veterans Affairs Medical Scribe Pilot Act of 2017”, 8 a.m., 334 Cannon.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the decline of economic opportunity in the United States, focusing on causes and consequences, 10 a.m., 1100 Longworth Building.
Next Meeting of the SENATE
9:30 a.m., Wednesday, April 5

Senate Chamber

Program for Wednesday: Senate will continue consideration of the nomination of Neil M. Gorsuch, of Colorado, to be an Associate Justice of the Supreme Court of the United States.

Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Thursday, April 6

House Chamber


Extensions of Remarks, as inserted in this issue

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