chairman of the Senate Judiciary Committee trusts Donald Trump to pick ''the right type of people'' for the Supreme Court. I can't think of a worse idea than placing the power to pick the next Supreme Court Justice in the hands of an unhinged individual who derides women, who calls them dogs and pigs. Look at the front page of the New York Times, at how he and Howard Stern decided how they were going to treat women. Read it. It is demeaning to my wife, my daughter, and my 9 or 10 granddaughters. I have them mixed up. There are 19. It is an uneven number, but they are close. I can't think of a worse idea than placing the power to pick the next Supreme Court Justice in the hands of this unhinged individual. He calls Latinos rapists and murderers.

This is the Supreme Court of the United States we are talking about—the Court that decided Marbury v. Madison and Brown v. Board of Education, the anniversary of which is coming up next Tuesday. This is not Donald Trump's reality show. This is the real world. This is no game. This is not a choice about whether Meatloaf or Gary Busey made a better art project; it is a choice about the future of America. The balance of the Supreme Court has real-life consequences for all of us.

Rational people don't want Donald Trump filling a Supreme Court vacancy. Iowans don't. The American people don't. But Senate Republicans obviously do, and Senator GRASSLEY does—or I should say he does now. Two weeks ago, before Donald Trump wrapped up the Republican nomination to my dismay, the senior Senator from Iowa sang a much different tune. Back then—all of 13 days ago—before Donald Trump was his standard bearer, Senator GRASSLEY said it would be a risk to let Trump pick a Supreme Court nominee. That was less than 2 weeks ago. This is what he said: ''If Trump's elected president, it probably is a little more unknown. . . . I would have to admit it's a gamble.'' It is a gamble, and it is not at a Las Vegas crap table or a slot machine. That it is a gamble is an understatement.

Trump picking a Supreme Court nominee is a guaranteed recipe for disaster. But now that Trump is the nominee, Republicans are marching in lockstep with him on the Supreme Court vacancy. Republicans want to put the Supreme Court in the hands of an unbalanced egomaniac.

Senator GRASSLEY and his colleagues say they want the future of the highest Court to be determined by an anti-woman, anti-Latino, and anti-middle-class billionaire who demeans women every day. Yesterday GRASSLEY told a reporter that ''there's no problem with Trump appointing people to the Supreme Court.'' But what had he said 2 weeks earlier? That it is a gamble.

Donald Trump wants to ban all Muslims from even coming into our country. That is whom Republicans want picking the Justices to do the work of our judiciary system, deciding questions about civil liberties—somebody who says Muslims shouldn't even come to this country. Trump encouraged supporters to physically assault protesters. Here is what he said: ''Knock the crap out of them.'' That is whom the Republicans want to select Justices to interpret the law. It is insane that my Republican colleagues are willing to entrust such an important responsibility to this egomaniac.

Instead of relying on the whims of an unscrupulous real estate tycoon—who inherited his money, by the way—Senate Republicans should trust in the Senate's time-honored process of considering Supreme Court nominees. Republicans can start by reviewing Judge Garland's nominee questionnaire, which the Senate got yesterday. After that, the Senate Judiciary Committee and Chairman GRASSLEY should do their job and hold a hearing. Then the Republican leader should bring Merrick Garland's nomination to the floor for a vote. A hearing and a vote—that is what we need to have, and that is how we will get, in Senator GRASSLEY's words, the right type of people on the Supreme Court. Meet with the man, hold hearings, and vote.

This year the Republican Senate is on pace to work fewer days than any Senate in the past six decades—60-plus years. So in that we are not doing much anyway, couldn't we just work in a little time to have a Supreme Court nominee?

Senator GRASSLEY was right the first time. Letting Donald Trump pick a Supreme Court Justice is indeed a gamble. It is a risk the American people can't afford and shouldn't afford. Instead of waiting for Donald Trump, Republicans should just do their job and at least allow the Court to have a full complement of nine Justices.

Mr. President, I see no one here on the floor, so I ask the Chair to announce the business of the day.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2028, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2028) making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Pending:

Alexander/Feinstein amendment No. 3801, in the nature of a substitute.

McConnell (for Cotton) amendment No. 3878 (to amendment No. 3801), of a perfecting nature.

Mr. REID. Mr. President, I suggest the absence of a quorum, but I ask that the time be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BOOZMAN). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, in about 5 or 6 minutes, the Senate will proceed to the scheduled vote on the Cotton amendment on the Energy and Water appropriations bill. Actually, it will be cloture on the Cotton amendment. Before that vote, I ask unanimous consent that I first be allowed to speak for a few minutes, and following me, Senator FEINSTEIN, and then we vote.

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

Mr. ALEXANDER. Mr. President, I will save most of my remarks for after the vote, but I wish to make two kinds of remarks. One is to give an update on the bill, where we are. The second remark is to restate my reasons why I will not vote for cloture on the Cotton amendment. First, in terms of where we are, we have the Cotton amendment at 10:30. The Senator from California and I have agreed—and I think our staffs and the Republican and Democratic leaders have discussed it—that there could be a vote for Senator CARDIN and Senator FISCHER at 60 votes, a voice vote on Senator FLAKE. That is it. Then we would have another cloture vote if we need it and a vote on final passage.

In my view, and I believe in terms of Senator FEINSTEIN's view, we ought to easily be able to finish the bill today. I think we should finish it today. I thank the Republican leader, Senator MCCONNELL, for starting the appropriations process earlier this year than it ever has been started before. I thank the Democratic leader, Senator REID, for working with us through some difficult issues we had on this first bill that we didn't expect and to make it possible for us to come to what looks like a prompt conclusion.

This is an important bill. The Senators know that. We have had nearly 80 Senators contribute parts of this bill. Some are very important to their States and this country. Whether it deepens the Mobile port or the west coast ports or rebuilds locks in Kentucky, Ohio, and Tennessee or whether it properly funds the national laboratories across the country or moves ahead with our nuclear weapons program, this is one of the most important appropriations bills that we have.

Today we will have spent 2 weeks on it, not counting the week we had for recess. We will have processed 21 amendments, if I go through the amendments I just described. If we succeed today in finishing the bill, it will

be the first time since 2009 that the Energy and Water appropriations bill has gone across the floor in regular order.

Senator FEINSTEIN and I have worked pretty hard together, and as she likes to say, both of us have engaged in some give and some take in order to create a result that the Senate can be proud of and set a good example for the next 11 appropriations bills. We have a lot waiting to be done. The majority leader has already announced he would like to move ahead with the transportation and military construction bill. On both sides of the aisle, there is concern about moving ahead with Zika, which could be done during that bill. The Defense authorization bill needs to be dealt with before we get to the next recess. We have nine more appropriations bills to deal with, and there is a very important biomedical research bill called the 21st Century Cures Act. I hope we get to that bill sometime before July.

AMENDMENT NO. 3878

Mr. President, I have one other thing to say. Senator FEINSTEIN and I have worked hard to give all the Senators who had germane, relevant amendments a vote on their amendments, and we succeeded very well with that. We processed 21 amendments, and that includes the amendment by Senator COTTON, which prohibits the United States from using tax dollars to buy heavy water from Iran in the year 2017. I defended his right to have a vote on that amendment, which we are about to have, but I will vote no on that amendment because I don't believe it belongs on the bill. No. 1, I think it should be considered first by the Foreign Relations and the Armed Services and Intelligence Committees because it is filled with national security implications. No. 2, if it were adopted, I think there would be dangerous complications because it could increase the possibility that heavy water from Iran, which in the United States would be used for peaceful purposes, could be sold by Iran to another country, such as North Korea, and used to help make nuclear weapons. I don't want to have the Senate approve an amendment that would create that kind of possibility. No. 3, the President said he will veto it, which would result in not only having the Cotton amendment rejected, but the bill would fail as well.

The discussion of where Iran's heavy water goes is an important discussion, and the Senator has a right to bring it up. Iran has it, and we don't want them to have it because they could use it to make nuclear weapons. We don't produce it, but we need it for medical and scientific research, so it makes sense for us to buy it. In the great scheme of things, it is not a great amount of money. But the idea of letting it go on the international market and perhaps find its way to countries building nuclear weapons is something I can't support, so I will vote no.

I thank the Senator from California for working through all of these issues with us, and I am glad that following Senator FEINSTEIN's remarks, we will vote on the Cotton amendment. I hope that with the cooperation of the majority leader and Democratic leader, we will be able to finish the bill today.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished chairman of the Energy and Water Subcommittee for his leadership and willingness to settle issues to get this bill to the point where it really is ready to be voted on by this body. I think he has made the argument against the Cotton amendment eloquently and correctly. I am very grateful for the fact that he did what I think is a noble thing and changed his vote and will be voting against the Cotton amendment.

Let me say something about this process. Both the chairman and I have been here for a long time, and we were here when appropriations bills were passed. The key to doing that is keeping poison pills off appropriations bills so they can be passed quickly. In addition to the arguments made by the chairman, the White House had very strong feelings and indicated they would veto this bill if it passed with this amendment. How do we start an appropriations process with a Presidential veto in the wings? I don't think we do. Hopefully, the appropriate thing will happen in this vote, and cloture will be defeated. I hope that it sends a signal—a strong signal—for the rest of the appropriations process. We want to show that we can run this place and get business done and poisons pills have no place on appropriations bills. That is my very deep belief, and that is where it once was.

Once again, I thank the chair for his help, cooperation, and leadership. It is quite wonderful to be able to work with the Senator from Tennessee, Senator ALEXANDER, and I too urge a ''no'' vote on cloture.

CLOTURE MOTION

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

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Senate amendment No. 3878 to amendment No. 3801 to Calendar No. 96, H.R. 2028, an act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Thad Cochran, Lamar Alexander, Johnny Isakson, Marco Rubio, David Vitter, Patrick J. Toomey, Steve Daines, Richard C. Shelby, James Lankford, John Thune, James M. Inhofe, Lisa Murkowski, Tom Cotton, Pat Roberts, John Barrasso, John Hoeven.

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

The question is, Is it the sense of the Senate that debate on amendment No. 3878, offered by the Senator from Kentucky, Mr. MCCONNELL, for the Senator from Arkansas, Mr. COTTON, to amendment No. 3801, as amended, to H.R. 2028, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

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

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—57

| | | |
|---|---|---|
| Ayotte | Ernst | Menendez |
| Barrasso | Fischer | Moran |
| Blumenthal | Flake | Murkowski |
| Blunt | Gardner | Perdue |
| Boozman | Graham | Portman |
| Burr | Grassley | Risch |
| Capito | Hatch | Roberts |
| Cassidy | Heitkamp | Rounds |
| Coats | Heller | Rubio |
| Cochran | Hoeven | Sasse |
| Collins | Inhofe | Scott |
| Corker | Isakson | Sessions |
| Cornyn | Johnson | Shelby |
| Cotton | Kirk | Sullivan |
| Crapo | Lankford | Thune |
| Cruz | Lee | Tillis |
| Daines | Manchin | Toomey |
| Donnelly | McCain | Vitter |
| Enzi | McConnell | Wicker |

NAYS—42

| | | |
|---|---|---|
| Alexander | Gillibrand | Paul |
| Baldwin | Heinrich | Peters |
| Bennet | Hirono | Reed |
| Booker | Kaine | Reid |
| Boxer | King | Schatz |
| Brown | Klobuchar | Schumer |
| Cantwell | Leahy | Shaheen |
| Cardin | Markey | Stabenow |
| Carper | McCaskill | Tester |
| Casey | Merkley | Udall |
| Coons | Mikulski | Warner |
| Durbin | Murphy | Warren |
| Feinstein | Murray | Whitehouse |
| Franken | Nelson | Wyden |

NOT VOTING—1

Sanders

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 42.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

AMENDMENT NO. 3878

Cloture not having been invoked on amendment No. 3878, under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Arkansas.

Mr. COTTON. Mr. President, I regret that the Senators failed to invoke cloture on my amendment, but I am gratified that a large bipartisan majority of the Senate agrees that we should not use U.S. taxpayer dollars to subsidize Iran's nuclear program over and above the obligations of the Joint Comprehensive Plan of Action.

Now that cloture has not been invoked, my amendment is still pending, and I understand that Democrats denied cloture on the bill three times because my amendment is able to be called up after cloture on the bill.

I want this bill to move forward, I want it to pass in an expeditious fashion, and therefore I intend later today to withdraw my amendment so it cannot be called up postcloture on the bill, leaving Democrats no reason not to agree to cloture on the bill and agree to final passage of the bill.

Finally, I want to thank the Senator from Tennessee as well as the Senator from Kentucky, the majority leader, for working with me to make sure we have the Senate on record on this important issue. I regret that it took multiple days to get to a point we could have reached very early on, as I had agreed to a 60-vote threshold 2 weeks ago, but I do think it is important that the Senate has spoken on this most critical issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Arkansas for withdrawing his amendment. I defended his right to have the amendment. I opposed the amendment, and I explained before the vote why I did that, so it is not necessary for me to say more about it.

As Senator FEINSTEIN and I said before the vote, we are ready to finish the bill. We have had terrific cooperation from Senators on both sides of the aisle. We will have included 21 amendments in the bill by the time we are finished. More than 80 Senators have made a contribution to the bill. It has importance to every part of our country. It is the first bill of a series of 12 that we need to deal with. It is within the budget levels. It is not a part of the Federal debt problem because the discretionary spending we are talking about is fairly flat.

It is a well-designed bill, and we are ready to finish the bill. When it will be finished, of course, is up to the majority leader and the Democratic leader as they schedule.

All that remains to be done, since Senator FEINSTEIN and I have recommended that we have votes on the Cardin and Fischer amendments at 60 and that we adopt a Flake-modified amendment by voice vote—then all that remains is a cloture vote, if necessary, and final passage. In our view, that could be done today, but there may be larger issues that have to do with the Senate schedule that would cause that to be put off until tomorrow, and we will wait for an announcement from the majority leader and the Democratic leader about what that schedule is.

Thank you, Mr. President.

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. ALEXANDER. 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. ALEXANDER. For the information of Senators and staff, there will be a vote at noon. We expect a cloture vote at noon on the bill. There may be other things to discuss at that time. Several Senators have asked me about votes, and I indicated that there were a couple and that there might not be votes until after lunch, but the plan now is to have a vote at noon on cloture on the bill. Perhaps by then we will be able to lock in some other votes, which would occur after lunch.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SULLIVAN). Without objection, it is so ordered.

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

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

## ZIKA VIRUS

Mr. CARDIN. Mr. President, I rise to discuss the Zika virus and the urgent need for Congress to provide the $1.9 billion President Obama has requested to combat this health crisis.

The Zika virus was first identified in Uganda in 1947. The virus is transmitted by the same mosquito species that transmits dengue, yellow fever, and chikungunya. Prior to 2007, the Zika virus had no known outbreaks and only 14 documented human cases. However, in the spring of 2007, scientists documented 185 suspected cases of Zika on Yap Island, Micronesia, followed by more than 30,000 suspected cases in French Polynesia and other Pacific islands between 2013 and 2014, and in May 2015 the first case of Zika was reported in Brazil.

On February 1, 2016, the World Health Organization declared the ongoing Zika outbreak to be ''a public health emergency of international concern.'' According to the World Health Organization's International Health Regulations, a public health emergency of international concern is a situation where the disease outbreak ''constitutes a public health risk to other States through the international spread of disease, and potentially requires a coordinated international response.'' The World Health Organization predicts that 3 to 4 million people—3 to 4 million people—in the Americas will contract Zika within 1 year.

There is a common refrain among scientists and experts studying Zika: There is much they still do not know about Zika, and what they do know is worrisome. Until recently, the Zika virus has been viewed as a relatively minor virus. The majority of individuals infected with the virus are asymptomatic, and those who do experience symptoms often complain of fever, rash, joint pain or conjunctivitis.

However, newer research has shown the Zika virus can cause a number of previously undetected medical conditions, especially in regard to pregnant women. Last month the Centers for Disease Control and Prevention confirmed the link between Zika infection during pregnancy and severe fetal brain defects like microcephaly. The World Health Organization recently concluded that Zika can cause Guillain-Barre, a rare condition that attacks the body's nervous system, causing muscle weakness and even paralysis. Scientists have also recently confirmed the virus can be transmitted sexually—a first for this type of virus.

As of April 2016, the World Health Organization documented Zika virus transmission in 62 countries and territories around the world, including 33 in the Americas. Brazil has been hardest hit by the virus, recording more than 91,000 cases of the virus and nearly 5,000 suspected cases of Zika-related microcephaly. Across the U.S. territories, nearly 600 people have contracted Zika, including more than 400 in Puerto Rico. Here in the Continental United States, there have been over 420 related Zika cases, including 12 in my home State of Maryland.

As we continue moving toward the summer months and the height of the mosquito season, the number of locally acquired and travel-associated Zika infections in the United States and its territories will undoubtedly climb. Just last month, CDC Director Tom Frieden indicated that clusters of locally acquired Zika were possible in the southern United States by the summer.

Last month, the administration officially announced they would transfer $510 million from the remaining Ebola funds to jump-start the Zika response while waiting for congressional action. While $510 million is a good start, it is just a fraction of what is needed to mount a full response to Zika. Congress does need to act because the $510 million Ebola fund isn't just found money. Those dollars were sustaining efforts to detect and prevent another Ebola outbreak in West Africa while also helping developing countries better respond to outbreaks on their own. It is unacceptable that we would force our public health professionals to choose between addressing Ebola or addressing Zika.

There is no question the United States must take the threat of Zika seriously and mount an urgent, aggressive, and sustained response to the virus. As we speak, a Federal interagency task force, led by the Department of Health and Human Services, is working around the clock to mitigate the impact of Zika. Within the task force, the CDC is working closely with laboratories in affected countries, in the United States, and its territories to enhance laboratory and surveillance capacity and improve diagnostics.

The CDC is also engaging in public health studies and is providing guidance to health professionals and educating the general public about prevention. The agency is also working with local authorities in the United States to improve mosquito control efforts.

In Maryland, the National Institute of Allergy and Infectious Diseases at the National Institutes of Health is supporting preclinical and clinical development of vaccines for the mosquito virus and other mosquito-borne diseases. The Institute is also collaborating with stakeholders to conduct vital research that will allow us to better understand the origins and pathology of Zika and bring us closer to developing a vaccine.

The Food and Drug Administration is working to improve and refine diagnostics for the Zika virus. Most notably, the FDA recently issued two Emergency Use Authorizations for two newly developed Zika diagnostic tests. To date, more than 25 States and the District of Columbia have verified their ability to test for Zika using these methods, which will enhance our ability to monitor this growing epidemic. The FDA is also working closely with the Biomedical Advanced Research and Development Authority to advance vaccine research and development.

I am also pleased the U.S. Agency for International Development, USAID, is working with UNICEF to develop and implement communication campaigns and community mobilization for behavioral change related to personal protection against mosquitos, as well as community-based mosquito mitigation and elimination efforts—commonly referred to as vector control—in areas hardest hit by the virus. The agency is also partnering with the World Health Organization and its South American arm, the Pan American Health Organization, to implement and monitor vector control programs.

In addition to providing personal protection commodities, USAID is also working closely with the international health partners to develop and adopt guidelines for addressing Zika in at-risk populations, particularly pregnant women.

This is just a fraction of what a Zika response looks like. I would be here much longer if I were to go through every detail of what our agencies are doing to respond to the threat. Suffice it to say, this is an all-hands-on-deck emergency, and we cannot implement and sustain an adequate response without fully funding the President's request.

More than 2 months have passed since the President sent his request to Congress. The Zika virus is not some nebulous foreign threat. It is already on our shores. Congress needs to act. I call on my fellow Senators to come to an agreement on a robust and comprehensive Zika supplemental that enables us to better prevent, treat, and respond to the virus both at home and abroad, while also replenishing the critical Ebola funds.

When it comes to global health pandemics, which know no borders, the Congress of the United States can and must act to protect American citizens and people around the world.

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

The PRESIDING OFFICER (Mr. SASSE). Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, within a few minutes, we will be voting for the fourth time on cloture on the bill. This time I expect it to pass. The Cotton amendment has been disposed of. Following that, if it is successful, Senator FEINSTEIN and I have recommended to the majority leader and the Democratic leader that we move to a vote on the Cardin and Fischer amendments, at 60 votes, and a voice vote on the Flake amendment. Then, all that would be remaining would be a final cloture vote, which may or may not be necessary, and final passage. None of those votes have been agreed to yet, and we will let Senators know when they are. But in the opinion of the bill managers, we are ready to finish the bill, and we thank Senators for their cooperation to get us to this point.

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

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

AMENDMENT NO. 3878 WITHDRAWN

Mr. ALEXANDER. Mr. President, on behalf of the Senator from Arkansas, Mr. COTTON, I withdraw the Cotton amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

CLOTURE MOTION

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

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Senate amendment No. 3801 to Calendar No. 96, H.R. 2028, an act making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

Mitch McConnell, Bob Corker, Tom Cotton, Thom Tillis, Mike Crapo, Joni Ernst, Jerry Moran, John Boozman, Lindsey Graham, John Thune, Daniel Coats, Chuck Grassley, Shelley Moore Capito, Thad Cochran, Lamar Alexander, Richard Burr, Roy Blunt.

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

The question is, Is it the sense of the Senate that debate on amendment No. 3801, offered by the Senator from Tennessee, Mr. ALEXANDER, as amended, to H.R. 2028, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

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

The yeas and nays resulted—yeas 97, nays 2, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—97

| | | |
|---|---|---|
| Alexander | Fischer | Nelson |
| Ayotte | Flake | Paul |
| Baldwin | Franken | Perdue |
| Barrasso | Gardner | Peters |
| Bennet | Gillibrand | Portman |
| Blumenthal | Graham | Reed |
| Blunt | Grassley | Reid |
| Booker | Hatch | Risch |
| Boozman | Heinrich | Roberts |
| Boxer | Heitkamp | Rounds |
| Brown | Hirono | Rubio |
| Burr | Hoeven | Sasse |
| Cantwell | Inhofe | Schatz |
| Capito | Isakson | Schumer |
| Cardin | Johnson | Scott |
| Carper | Kaine | Sessions |
| Casey | King | Shaheen |
| Cassidy | Kirk | Shelby |
| Coats | Klobuchar | Stabenow |
| Cochran | Lankford | Sullivan |
| Collins | Leahy | Tester |
| Coons | Manchin | Thune |
| Corker | Markey | Tillis |
| Cornyn | McCain | Toomey |
| Cotton | McCaskill | Udall |
| Crapo | McConnell | Vitter |
| Cruz | Menendez | Warner |
| Daines | Merkley | Warren |
| Donnelly | Mikulski | Whitehouse |
| Durbin | Moran | Wicker |
| Enzi | Murkowski | Wyden |
| Ernst | Murphy | |
| Feinstein | Murray | |

NAYS—2

| | |
|---|---|
| Heller | Lee |

NOT VOTING—1

Sanders

The PRESIDING OFFICER. On this vote, the yeas are 97, the nays are 2.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am glad to see an enthusiastic vote of support on the cloture motion on the fourth try. We gain a little bit every time.

For the information of Senators, there will be two votes at 4:30 p.m., on the Cardin and Fischer amendments at 60 votes each.

AMENDMENTS NOS. 3871, 3888, AND 3876 TO AMENDMENT NO. 3801

Mr. President, I ask unanimous consent that it be in order to call up the following amendments and that they

be reported by number: Cardin amendment No. 3871, Fischer amendment No. 3888, and Flake amendment No. 3876; further, that the time until 4:30 p.m. be equally divided between the managers or their designees for debate on the amendments concurrently; and that following the use or yielding back of time, the Senate vote on the Cardin and Fischer amendments in the order listed, with a 60-affirmative-vote threshold for adoption for amendments Nos. 3871 and 3888; I further ask that there be no second-degree amendments in order to any of these amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendments by number.

The senior assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER], for others, proposes amendments numbered 3871, 3888, and 3876 to amendment No. 3801.

The amendments are as follows:

AMENDMENT NO. 3871

(Purpose: To use Federal and State expertise to mitigate fish and wildlife impacts at Corps of Engineers projects)

At the appropriate place, insert the following:

**SEC. _____. PROTECTION OF FISH AND WILDLIFE.**

(a) IN GENERAL.—None of the funds made available by this Act shall be available to carry out project or project operation studies unless the Secretary of the Army ensures evaluation of and mitigation for impacts to fish and wildlife resources consistent with recommendations developed by the Director of the United States Fish and Wildlife Service, the Secretary of the Interior, and the States pursuant to section 2 of the Fish and Wildlife Coordination Act (16 U.S.C. 662), including recommendations to properly evaluate impacts and avoid adverse impacts to fish and wildlife resources.

(b) REQUIREMENTS.—

(1) IN GENERAL.—In carrying out subsection (a), the Secretary of the Army shall not select a recommended alternative for a water resources project if the Director of the United States Fish and Wildlife Service concludes that the impacts of that alternative cannot be successfully mitigated.

(2) MITIGATION.—The mitigation requirements under this section shall be in addition to any other mitigation measures required under section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283) and any other applicable Federal or State law (including regulations).

AMENDMENT NO. 3888

(Purpose: To provide for the operation of reservoir projects by the Bureau of Reclamation)

At the end of title II, add the following:

SEC. 2____. None of the funds made available by this Act that would be provided to the Bureau of Reclamation for reservoir projects, operations, administration of water rights, or other action in the Republican River Basin may be used in a manner that does not comply with each applicable—

(1) current resolution of the Republican River Compact Administration, dated November 24, 2015, for accounting and reservoir operations for 2016 and 2017; and

(2) State order necessary to carry out that resolution.

AMENDMENT NO. 3876

(Purpose: To require that certain funds are used for the review and revision of certain operational documents)

On page 5, line 22, strike the period at the end and insert the following: ": *Provided further*, That of the funds provided herein, for any Corps of Engineers project located in a State in which a Bureau of Reclamation project is also located, any non-Federal project regulated for flood control by the Secretary of the Army located in a State in which a Bureau of Reclamation project is also located, or any Bureau of Reclamation facilities regulated for flood control by the Secretary of the Army, the Secretary of the Army shall fund all or a portion of the costs to review or revise operational documents, including water control plans, water control manuals, water control diagrams, release schedules, rule curves, operational agreements with non-Federal entities, and any associated environmental documentation.".

The PRESIDING OFFICER. The Senator from Wyoming.

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

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

ZIKA VIRUS

Mr. BARRASSO. Mr. President, I come to the floor today to talk about the threat that the Zika virus poses—a threat to the health of Americans and to people around the world.

Every day we learn more about this virus. The Centers for Disease Control and Prevention has confirmed a link between Zika and microcephaly. That is a condition where babies are born with smaller heads and with brain defects. It is a devastating problem that we are all facing.

Studies have linked Zika to something called Guillain-Barre syndrome—a condition I studied in medical school and have seen patients with. It can lead to paralysis, which is another very serious condition.

Last week the Centers for Disease Control also confirmed the first Zika-related death in Puerto Rico.

Because this virus is mostly spread by mosquitoes, the potential risk is only going to become more urgent as the weather turns warmer. So we must do what we can now—today—before this turns into a true epidemic rather than the threat it is today. America's drug companies and researchers need to continue working on treatments, tests, and vaccines. Our cities and towns need to start taking aggressive measures to control mosquitoes. Doctors can help to educate people who are at risk of contracting the disease—this virus—but we really do need all hands on deck.

Washington has an important part to play, and Republicans in the Senate are ready to address this issue. Congress has already passed legislation that adds Zika to what is called the priority review voucher program. This program awards financial incentives to the sponsor of a new drug that is approved to prevent or treat a tropical disease. That is a good way Congress can help speed up the research process in dealing with Zika. Congress has also approved the transfer of nearly $600 million in existing, unobligated funds for an immediate Zika response, so the money has already been moved to help.

We can also make a big difference by cutting through redtape, and there is significant redtape in this city that actually makes it harder to kill mosquitoes that carry this virus. We would think we would want to make it easier to kill mosquitoes, but there is redtape in Washington, DC—bureaucrats making it harder to kill the mosquitoes that carry the virus.

Today it is hard to believe that there are requirements for permits that I think are absolutely unnecessary and that make it more difficult and more expensive to spray for mosquitoes in the United States. So if a farmer or a rancher, a city or a community wants to spray for mosquitoes, they have to use a pesticide that has been approved by the Environmental Protection Agency; that is No. 1. In a lot of cases, people who want to spray for mosquitoes also have to get a separate permit under the Clean Water Act. That is No. 2. There are two steps—one, to get the permit to spray, and two, to get the EPA approval of what they are going to spray with. This doesn't add any benefit to the environment, and it certainly doesn't help protect anybody from the Zika virus. It is Washington getting in the way. It adds another hoop for people to jump through before they can get rid of the mosquitoes that carry the Zika virus.

Senator MIKE CRAPO from Idaho has written legislation that would eliminate this second unnecessary requirement. It is not saying that anyone can go out and spray whatever they want. The pesticide would still have to be approved so that we know they are safe. But the legislation says that we don't need this second permitting process that Washington demands. It is a commonsense change. It is the kind of thing we could do to help local officials on the ground make the best decisions about how they can fight these mosquitoes and this virus in their communities, in the places they know the best, and do it quickly.

The Crapo bill has 18 cosponsors, and I am proud to be one of them. It is a bipartisan bill with bipartisan support, and it has already passed the Environment and Public Works Committee. We should take up this bill and pass it and get these tools into people's hands as quickly as possible.

I know that some of what America can do to help fight Zika—and people understand this—is going to require us to spend money, and I support that. That is why the Appropriations Committee is looking at the need for additional funding, additional spending to address this threat. Regular appropriations bills are the best way for us to carefully look at where the priorities are for spending the taxpayers' dollars. That is how we should be paying for things around here, not just another

continuing resolution or some emergency measure.

When something new comes up, we can look at it, figure out how to balance the costs, and if we have to do an emergency bill to get some money out the door more quickly, we can take a look at that as well, but we can't do that without at least having a plan from the administration on where and how this money they are requesting is going to be spent.

The Obama administration has not yet given us the level of information we need to make an informed decision. It appears that the administration is trying to take advantage of this Zika emergency to give itself an additional $2 billion to use however it wants—maybe to fight Zika but maybe to do other things. What the administration is saying is that they want the money to be used for ''assistance or research to prevent, treat, or otherwise respond to Zika virus . . . or other infectious diseases.'' The wording is much too vague. It would allow the administration to use these emergency funds on other priorities well beyond a Zika response.

The President's request for emergency funding goes on to say that most of the money, they say, could be transferred to other parts of the government, like the Environmental Protection Agency and even the Department of Defense. It includes a lot of expenses that don't necessarily qualify as emergency spending outside the regular appropriations process.

Both sides of the aisle know the Zika situation is serious, and both sides want to do what we can to help. But Congress also has an obligation to make sure that our taxpayer dollars are being spent responsibly, that there is accountability. We shouldn't be writing a big check for the Obama administration to cash without adequate explanation and adequate accountability. We deserve that. The American people deserve it. They will expect it, and they deserve it.

I want to be clear. Zika is a very real public health threat, and it deserves serious discussion. It deserves urgent action. This fight against the Zika virus should not be turned into a political game. So I think it is a terrible sign that some Democrats in the Senate have begun to treat this devastating health issue like just another political talking point. That is what they have done here on the floor of the Senate. A couple of weeks ago, Democrats actually held a press conference calling on Congress to approve emergency funds for Zika. Then these same Democrats turned around and blocked passage of the Energy and Water appropriations bill for a number of days.

The appropriations process is the best way for us to fund the Zika response, and the Senate Democrats are holding up this process for political purposes. We need to get moving beyond this appropriations bill to the next one that is going to address the issue of Zika. Then we hear that the minority leader might want to wait until next week to get on this bill. We need to get on this bill now.

So the Democrats have made it clear that they don't even want to talk about offsetting any of the Zika funding. The Obama administration continues to stonewall our reasonable requests for adequate information about how it wants to spend these taxpayer dollars.

Senate Republicans are going to keep asking for this information. We are going to keep pushing to use the appropriations process the way it is intended, and we are committed as Republicans to addressing the public health threat posed by the Zika virus. We will continue working across the aisle to respond to the threat and to do it in a way that is reasonable, responsible, and accountable.

Thank you.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. ERNST). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Madam President, I ask unanimous consent to speak as in morning business.

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

NOMINATION OF MERRICK GARLAND

Mrs. MURRAY. Madam President, I come to the Senate floor to once again urge my Republican colleagues to listen to the vast majority of the people across the country, do their job and allow us to do ours: fulfill our constitutional responsibilities, hold hearings for Judge Merrick Garland, and give him a vote.

We owe that to the people we represent. It is simply the right thing to do. Two months ago, the President did his job. He selected a nominee. For 2 months, Judge Garland has been ready and willing to meet with any Senator who will make the time. Yesterday Judge Garland did his job by submitting a questionnaire to the Senate Judiciary Committee outlining his background and his work history, which is standard for judicial nominees.

What about the Senate? In complete disregard of what so many Members continue to hear in their home States across the country, Republican leaders are refusing to act. Senate Republicans will not say they are opposed to Judge Garland. They are refusing to even live up to their constitutional responsibility and consider him. This kind of pure obstruction and partisanship is so wrong. People across the country are not going to stand for it. We are now at an unbelievable 88 days into this Supreme Court vacancy. Especially after knowing what I do after meeting with Judge Garland and what many Republicans know after meeting with him as well, his distinguished career and work history show that he is, without a doubt, someone who deserves fair consideration by all of us in the Senate.

Judge Garland led a massive investigation of the Oklahoma City bombing and supervised the prosecution of Timothy McVeigh. He called his work for the Justice Department, following the Oklahoma City bombing, the most important thing he has ever done in his life.

His fairness and diligence earned him praise from Members of both parties, from victims' families, law enforcement officers, and even from the lead lawyer who was defending McVeigh. As a prosecutor, he ensured proper respect for the rights of criminal defendants.

He was confirmed to the DC Circuit Court of Appeals in 1997 with a strong bipartisan vote of 76 to 23. Several of those who confirmed him in 1997 still serve in the Senate today. Clearly this is less about Judge Garland as a nominee and more about political obstruction and partisanship, especially after one Republican Senator admitted that if it looks as if Donald Trump will lose the November election, we should quickly confirm Judge Garland. This comes after weeks of saying the Senate should not do its job until we have a new President.

Evaluating and confirming Supreme Court Justices is one of the most important roles we have in the Senate. I have heard from people all over my State of Washington who want the Senate to do its job.

If Republicans continue to refuse to do their jobs, they aren't saying the people should decide; they are saying they believe the Republican Presidential nominee should. That is just wrong, especially after we heard from the presumptive Republican nominee last night on FOX News.

Recently, he said that he thinks women should be punished for exercising their constitutionally protected reproductive rights.

Last night he went a step further. He would only appoint ''pro-life'' Justices who would overturn Roe v. Wade. Let me repeat that. The candidate Republicans would like to see in the White House nominating Supreme Court Justices has committed to taking our country back to the Dark Ages.

That is appalling, and it is something I know millions of men and women across the country are scared of. It is just one more reason that people will continue demanding that Senate Republicans do their jobs now.

Washington State families should have a voice right now. Families across America should have a voice right now. The tea party gridlock and dysfunction that has dominated too much of our time and work in Congress should be pushed aside right now.

I hope Republicans will reconsider. I hope they will meet with Judge Garland, hold a hearing, and give him a vote. We need nine Justices serving on the highest Court in the land.

The American people deserve a fully functioning Supreme Court.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I come to the floor to talk about a very important responsibility that the Senate has to deal with in an expeditious manner—a Supreme Court nomination.

In a practice consistent with every single Supreme Court nominee before him, President Obama's nominee to fill the vacancy, Judge Merrick Garland, submitted his completed questionnaire yesterday to the Senate Judiciary Committee. Inside 6 boxes were 141 pages—with 2,066 pages of appendices—in which Judge Garland provided incredibly thorough answers to the standard questions asked of every Supreme Court candidate.

He detailed the highlights of his career, his published writings, the many honors and awards he received, the cases he litigated, the judicial opinions he gave, as well as his speeches and his interviews.

Despite the fact that Senate Republicans have forced Judge Garland into an unprecedented limbo, he remains focused on the task before him. He has acted with the greatest decency, thoughtfulness, and bipartisanship while agreeing to meet with 46 Senators, including 14 Republicans.

Judge Garland respects the process. Why can't Senate Republicans?

President Obama clearly respected the process when he picked Judge Garland, who—as Chief Judge of the U.S. Court of Appeals for the District of Columbia, the second most important court in the country—has more Federal judicial experience than any other Supreme Court nominee in history.

Let me repeat that. Judge Garland, the nominee from our President, who was duly elected not once but twice, has more Federal judicial experience than any other Supreme Court nominee in history.

Judge Garland has committed much of his life to public service, from his days leading the successful prosecutions of the Oklahoma City bombers and the Unabomber, to his nearly two decades as a Federal appellate judge. He is brilliant and he is evenhanded.

The Congressional Research Service called him ''pragmatic'' and ''meticulous,'' a nominee who prioritizes ''collaboration over ideological rigidity.''

Let me repeat that. He is a nominee who prioritizes ''collaboration over ideological rigidity.''

He has also received high praise from some Republican Senators, and that praise deserves repeating.

Senator LINDSEY GRAHAM said: ''He's honest and capable, and his reputation is beyond reproach.''

Senator JIM INHOFE, the chairman of the committee on which I serve as ranking member said: ''I think a lot of him.''

Senator ROB PORTMAN: ''He's an impressive guy.''

Senator JEFF FLAKE said: ''Nobody has a bad thing to say about him.''

Yet in the same breath, these are some of the very same Republicans who refuse to hold a hearing and schedule a vote on Judge Garland's nomination, even though article II, section 2, clause 2 of the Constitution says that it is the Senate's job to provide ''advice and consent'' on the President's Supreme Court nominees.

This is what gets me—that my Republican friends say they care about the Constitution. They love the Constitution. They abide by the Constitution. They want a literal reading of the Constitution. Well, let's read it together—article II, section 2, clause 2: The President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . judges of the Supreme Court.''

It doesn't say the President ''may nominate''; it says the President ''shall nominate.'' It doesn't say the Senate ''may give advice and consent''; it says they ''shall.'' The President shall, by and with the advice and consent of the Senate. They also shall appoint Ambassadors, other public ministers and consuls, and judges of the Supreme Court.

So here it is. This clause wasn't put in some bottle and miraculously washed up on the shore and read—this is what our Founding Fathers wanted. It is in the Constitution. It doesn't say ''may.'' It doesn't say to the Senate: ''And by the way, p.s., if you don't like the President, forget it.'' No, no, no. It is not in there. I looked. It doesn't say: ''Well, if you think that a President isn't a good President and that you are going to get a better one, you can put it off.'' No, it doesn't say that.

The American people have three words for the Republicans who are disrespecting this process, disrespecting our Constitution, disrespecting our President, and threatening to create a man-made crisis at the Supreme Court. And it is a crisis. If they deadlock, it is a crisis. We will have one set of laws in one part of the country and one set of laws in the other part of the country, or we are not going to have a ruling on a very important issue. It doesn't matter what your ideology is, you are setting up deadlocks.

It is bad enough that there is obstruction here. I know my friend, the Senator from Illinois, will talk about the obstruction when it comes to judges and Ambassadors and the like because we face it every day. That is bad enough. But the highest Court in the land, governed by this Constitution—it doesn't say: ''Look at the other side of the paper. You really don't have to act.'' No.

Across party lines, the American people are saying three words to my Republican friends: Do your job. Do your job.

Since 1916, when the Senate Judiciary Committee began holding public confirmation hearings for Supreme Court nominees, the Senate has never denied a Supreme Court nominee a hearing and a vote. Let me say that again. Since 1916, the Senate has never denied a Supreme Court nominee a hearing and a vote. The Democrats never did it, and the Republicans never did it—until now. And this is from the very people who say: ''Oh, I carry the Constitution in my heart. I am a strict constructionist.''

If you are such a strict constructionist, read this and follow the Constitution.

I am not sure about this. I think I read that somebody is either thinking about filing a lawsuit or they have filed a lawsuit because of inaction. I tell you, if I wasn't here, I would truly think about that. You can't read this Constitution and come up with any conclusion other than that what they are doing is unconstitutional—the very same people who say: ''Follow the Constitution.''

So in closing, which are the words my friend is waiting for, here is what I want to say. Our Republican friends have to rethink their obstructionist approach because they are going to do lasting damage to two of our country's most important institutions—the Senate and the Supreme Court. I know they love their country. I know they may not like this nominee, even though a lot of them seem to like him quite a bit. Maybe they are waiting for Donald Trump to put someone up. I hope that never happens. But I am going to tell you now that you are obstructing. You are obstructing the will of the people. You are obstructing a President who was elected twice. You are obstructing justice for the American people, and they all hate what you are doing, including the Republicans who have been polled.

My Republican colleagues have to end these political games. It is time to give Judge Garland the same consideration as every other nominee before him. It is time to bring some respect back to the Senate and to the Supreme Court nomination process. The American people are going to hold my Republican colleagues accountable for this because you cannot do this. This is not right.

If you want to vote against a nominee, fine. I have done it. Of course, vote against the nominee. But as much as I have opposed nominees before—and I have—I have never suggested, nor has any other Democrat I know of ever suggested, that you don't go forward with the process.

I thank the Chair, and I yield the floor, noting that my friend from Illinois is going to address us.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, will the Presiding Officer tell us what the order of business is.

The PRESIDING OFFICER. The Senate is postcloture on amendment No. 3801.

Mr. DURBIN. There are no time limits agreed to?

The PRESIDING OFFICER. The time is evenly divided until 4:30 p.m.

Mr. DURBIN. I thank the Chair.

JUDICIAL NOMINATIONS

Mr. President, the Executive Calendar is sitting here on the table for each Member of the Senate to take a look at. I have renamed it. It is no longer the Executive Calendar; it is the political obituaries.

These are men and women who have been nominated to serve in positions of our government, who are excited about the opportunity to be public servants, many of whom have gone through extensive background checks, FBI checks, with staff having taken a look at their resumes, asked hard questions, demanded answers, and put these nominees through hearings. Many went through extensive periods of investigation and hearings and then were reported—20 of them, 20 judicial nominees—by the Senate Judiciary Committee to the floor of the Senate. Were they controversial? No. All 20 came to the floor by unanimous vote.

Think about it. Here is a Senate divided—54 Republicans and 46 Democrats—and 20 judicial nominees made it through what I just described to the Executive Calendar of the Senate, Wednesday, May 11, 2016. And there they sit, day after weary day, month after weary month, thinking they might have a chance to serve this Nation but realizing the clock is running out. What do I mean by that? In this Congress we have approved 17 judges—2 circuit judges, those at the appellate level, and 15 at the district level. Twenty still sit on the calendar. And across the United States, we have 87 judicial vacancies, including 29 that are in districts we think are in serious trouble if they aren't filled quickly.

The Republican majority in the Senate puts these men and women through this process, reports them out of committee, and then lets them languish on the floor of the Senate. They will not call them for a vote. What are they waiting for? Well, it is a political decision. Here is what it comes down to. There is an unwritten rule—you will not find it in our rule book—called the Thurmond rule. It relates to Senator Strom Thurmond of South Carolina. He must have articulated this at some point in his career, but he said: When it comes to an election year—like this one—we will stop approving nominations as of the beginning of the political conventions.

Well, in this year, that is going to be about the middle of July. So if you do the countdown of when we are in session, we have probably 5, 6 weeks left to consider nominations before they die under the unwritten Thurmond rule. So what the Republicans are doing is running out the clock on these 20 people. We shouldn't be surprised. If they would do this on a nomination to fill a vacancy on the highest Court of the land, it shouldn't surprise us they would do the same thing when it comes to these 20 nominees. What are they waiting for? Why don't they want to approve these noncontroversial judges? They are waiting in prayerful reflection for the election of Donald Trump as President.

Mr. President, you know that many people in your party have mixed feelings about the candidacy of Mr. Donald Trump. But I would say, stepping aside from the merits of his candidacy, we shouldn't have mixed feelings when it comes to the Constitution, and the Constitution is explicit when it comes to vacancies on the Supreme Court. The Founding Fathers, in the Constitution—quoted a few minutes ago by my colleague from California—in article II, section 2, didn't mince words or equivocate. They said the President shall appoint nominees to fill vacancies on the Supreme Court, subject to the advice and consent of the Senate.

We both have a role. The President is required by the Constitution to appoint someone to fill a vacancy. And 3 months ago, the untimely passing of Justice Antonin Scalia created that vacancy. Two months ago—56 days ago—President Obama nominated Merrick Garland to be the next Justice on the Supreme Court. The President met his constitutional responsibility. But the Republicans in the Senate announced, hours after Justice Scalia was found to have passed away, they would not even consider a nominee by this President to fill that vacancy—not a hearing, not a vote.

You might say to yourself: Well, that is politics in Washington. Should we expect anything different? Should we expect a Republican Senate to approve a nominee from a Democrat? Come on, this is hard ball here; this isn't bean bag.

Well, let me tell you a little story. In 1988, with a vacancy on the Supreme Court, Republican President Ronald Reagan, in his last year in office, nominated Anthony Kennedy to fill that vacancy and sent the nominee to this Chamber in the Senate when it was controlled by the Democratic side. What did the Democratic majority say to the Republican President, trying to fill a Supreme Court vacancy? We know our responsibility. And that Senate, under control of the Democrats, took up the name offered by the Republican President, approved him, and sent him to the Supreme Court in 1988.

So to argue ''This is just typical politics. Don't make a lot of noise. We do this all the time''—let me make it clear: What the Republican Senate majority is doing today has never—underline that word ''never''—happened in the history of the United States of America.

This is disrespect for a constitutional provision that is explicit. This is disrespect for a Court which now sits with 8 members on the Court—a Court which could find itself—and already has in several instances—tied 4 to 4. How important is that? Let me read a quote from back in 1987: ''Every day that passes with the Supreme Court below full strength impairs the people's business in that crucially important body.'' Who made that statement? Republican President Ronald Reagan. What he said then applies now.

What the Republican majority is doing in the Senate—refusing Merrick Garland a hearing and a vote, holding up on the calendar 20 nominees who should be on the Federal bench—is obstructionism at its worst. It is what the people are sick of across this country. It is disrespectful to the Constitution, it is obstructionism, and it is pure politics.

Why? Why are they so determined to keep this vacancy? Some of them, as I said, are dreaming of the possibility of a President Trump picking the next Justice on the Supreme Court. I will let your mind race away with the possibilities if ''The Donald'' is going to choose the next Justice on the Supreme Court, but others really bring it down to a much more basic level.

There are special interest groups who want to make sure the next Justice on the Supreme Court is their friend. They do not want to run the risk that someone is going to be put on the Court who will not rule in their favor. So they are praying their political prayer: Hang on, hang on, Senate Republicans. Take the grief that two-thirds of the American people think you are wrong in what you are doing and be prepared to accept that grief if you want the support of these special interest groups.

That is what this comes down to. It is the sad reality of politics in Washington today. And I will tell you, there is blame for both sides on many issues, but on this one there is crystal-clear clarity. The President has met his constitutional responsibility. The Senate Republican leaders, for the first time in the history of the United States of America, are denying a Supreme Court nominee a hearing and a vote. That is fundamentally wrong under the Constitution and fundamentally unfair to Merrick Garland.

Merrick Garland was born in Illinois, so maybe I am partial to him a little bit, but he has quite a record. He has been touted as one of the best nominees in terms of qualifications. He is now the chief judge of the D.C. Circuit Court, right below the Supreme Court. That is a big job, but he is the man for it, according to people from both political parties.

Solicitors General of the United States of America just sent a letter to the Senate. Nine of them signed, Democrats and Republicans. These are men and women who have argued before the Supreme Court representing the United States of America—attorneys who are familiar with that Court, the gravity of the decisions they face, the requirements to serve on the Court—and

unanimously, Democrats and Republicans, they said to the Senate: Merrick Garland is the right man to serve on the Supreme Court.

We come today with sadness, and even more with a sense of injustice that the Republicans would allow this political gambit to continue. To think that they are waiting for President Donald Trump to fill this vacancy is almost impossible to say or to believe, but it is a fact.

I will close by saying I have checked the Constitution, and I check it regularly. There has been no change in the provision that says, in November of 2012, Barack Obama was reelected President of the United States to serve for 4 years—4 full years—and that would include this year. The Republican argument that he is out of business now and we will wait for the next President defies the verdict of the American people in that election. By 5 million votes they said: Barack Obama, you are the President of the United States for 4 years, with the powers attendant to that office. The denial by Republicans of that constitutional reality is a reflection on their feelings about a document which they have sworn individually to uphold and defend.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SCOTT). The Senator from South Dakota.

THE ECONOMY

Mr. THUNE. Mr. President, 2 weeks ago we received the initial report on economic growth in the first quarter of 2016. The news was not good. As my colleague, the Senator from Alaska, Mr. SULLIVAN, has pointed out many times on the floor and in many forums, our economy grew at a dismal rate of one-half of 1 percent during the first 3 months of 2016—one-half of 1 percent economic growth. In other words, the economy barely grew at all.

While this report was particularly terrible, the truth is, weak economic growth has become the norm under the Obama administration. Since the recession ended in June of 2009, the economy has grown at an average rate of just 2.1 percent. In the typical post-1960 recovery, by contrast, economic growth averaged 3.7 percent. That is a huge difference. It is the difference between a stagnant economy and a flourishing economy—and, for millions of American families, it is the difference between surviving and thriving.

Middle-class families are making 6.5 percent less than they were making in 2007, before the start of the great recession. A large part of the reason for that is the sluggish economic growth we have experienced in the Obama recovery. For too many families, this slow recovery has meant the end of cherished dreams—the dream of owning their own home, the dream of sending their kids to college, the dream of a secure retirement—and the kind of growth we need to escape from these economic doldrums is nowhere in sight.

In fact, the Obama economy has led some economists to wonder if 2 percent growth is the new normal. Right now, the Federal Reserve is projecting the economy will grow at a median rate of just 2.2 percent in 2016 and 2.1 percent in 2017. I would argue, based upon the 0.5 percent economic growth the first quarter of this year, they may be dramatically overshooting the rate of economic growth if the current trend continues, and the St. Louis Fed expects that weak growth to continue for the next decade. That is very bad news for American families who are facing a less prosperous future with less economic opportunity and mobility.

During the entire postwar period from 1947 to 2013, our Nation averaged 3.3 percent economic growth. At that pace, Americans' standard of living almost doubles every 30 years, incomes rise, financial security increases, and more people are able to afford homes, take vacations, and save for higher education. On the other hand, at the pace of growth we have seen since 2007, it will take far longer for the standard of living to double.

Fortunately, we are not condemned to weak economic growth. If we look at the President's record, it is easy to see why our economy is still sputtering along: We had a failed $1 trillion stimulus program; $1.7 trillion in new taxes; the President's health care law, which raised premiums for families and increased costs for small businesses; more than 2,700 new Federal regulations—and counting, we are not done yet—get added to by the day; and a Federal debt that has nearly doubled on the President's watch and more.

The President's policies don't have to be permanent. We can repeal ObamaCare and the incredible burdens it is placing on so many families and small businesses. We can replace it with something that makes more sense, creates competition, gives consumers more choices, and drives down prices.

We can replace the President's tax hikes with comprehensive tax reform that focuses on lowering taxes for families and making America the best place in the world to do business, we can take serious action to address the spending that is fueling our national debt, and we can repeal some of the thousands of burdensome regulations the President has imposed during his tenure.

It is easy to forget that every regulation the government imposes, no matter how small, has a cost—and those costs are paid by American families and American businesses. Take the national energy tax the President imposed on coal-fired powerplants. This rule will potentially drive up electricity bills for families by hundreds of dollars each year, and it will be especially harmful to low-income families and seniors who are living on fixed incomes.

Take the President's decision to allow the EPA to regulate ponds and ditches on private land. This regulation will have significant economic impacts for farmers and property owners who will likely be hit with new Federal permits, compliance costs, and the threat of significant fines. Over the past 7-plus years, the Obama administration has imposed more than 2,700 regulations, including hundreds of major regulations. When I say ''major,'' those are regulations that cost American families and businesses more than $100 million each year. Out-of-touch Washington bureaucrats reaching into our States and imposing regulatory burdens from afar has become all too common in the Obama administration. Repealing some of the worst of these regulations would drastically reduce the burdens facing American families and businesses, and that would put more money in American families' pockets and free American businesses to do what they do best; that is, to innovate and create new, good-paying jobs.

If we continue on the path we are on right now, we might be the first generation of Americans to leave the next generation of Americans worse off, but we don't have to be. We can reverse the course the President has set during his administration and put in place the kind of policies that will create conditions that are favorable to economic growth, to grow our economy and lift the burdens on American families.

Republicans in the Senate have already been working to undo the worst policies of the Obama administration. We are going to continue to fight until our Nation's economy is thriving and all families have the opportunity to achieve the American dream.

If we can just achieve 1 percentage point additional growth in the economy each year, we are told by leading economists that would add 1.3 million jobs to our economy, raise wages by $9,000 a year, and generate an additional $300 billion of Federal revenue that would make our fiscal picture look a lot smaller by comparison.

We have to get spending under control. We have to reform entitlement programs that are unsustainable, that are going to bankrupt future generations of Americans, to get our fiscal house in order, but we also have to grow the economy at a faster rate. One-half of 1 percent is not adequate—nor is 1 percent, nor is 2 percent. We need to get back to a normal growth period in our economy. As I said, since the end of World War II, 3.3 percent has been the average, 3.7 percent has been the norm in a recovery coming out of a recession. If we get to that level of growth, we will see millions of new jobs in our economy, we will see American families getting their wages back to where they are growing with the economy, better paying jobs for American workers, and a fiscal picture that looks a lot more manageable than the one we face today.

Economic growth is key to so many things that affect Americans' lives on a

daily basis. We in the Senate ought to be focused like a laser on what we can do to put the right policies in place that would encourage and promote economic growth, rather than coming up with new ways to make it more difficult and more expensive in this economy to create jobs. Far too often, everything that happens in Washington, DC, today leads to more expenses, more mandates, more requirements, more regulations, and higher taxes, making it more difficult for our economy to get to that faster growth that is so important if we are going to make Americans' standard of living and quality of life better and hand off to the next generation a standard of living they deserve and that will improve on the one we enjoy today. That is what this is all about, and that is what we ought to be focused on.

I am pleased the Senator from Alaska is here. I am told the Senator from Indiana will be joining him in just a minute to discuss the subject. The Senator from Alaska, Mr. SULLIVAN, has been a great advocate of growth in our economy and has been down on the floor talking about the implications of a half percent of growth and what that means; that if we don't change that trajectory and change it soon, we are going to continue down a path that makes it more and more difficult for American families to get ahead. That needs to change—faster growth, higher growth, the right kind of policies—to make that possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. SULLIVAN. Mr. President, I compliment my good friend from South Dakota, the chairman of the Commerce Committee, for coming down and leading the discussion on a very important topic that, to be honest, we are not talking about nearly enough in the Senate—and certainly the Obama administration is not talking about nearly enough—and that is the importance of our economy.

I was on the floor a couple weeks ago and I made a prediction. I said there is going to be big economic news coming out, and my prediction was that nobody in the administration was going to talk about it and none of our friends in the media were going to talk about it. Unfortunately, my prediction came true.

The big news, as Chairman THUNE said, is that last quarter we grew at 0.5 percent GDP growth. We essentially didn't grow. We didn't grow. The great American economy, the thing that has made us great as a country for 200-plus years, just stalled—and nobody talked. The Obama administration didn't talk about it. The media didn't talk about it.

When we talk about gross domestic product, this is essentially the health of the economy. It is the measure of opportunity in America. Unfortunately, what we saw last quarter was additional proof that the Obama administration on this critical issue—economic growth for our citizens—is one of the worst in U.S. history. It is not just me saying that. People should take a look at these numbers. These numbers are actually from the administration and other administrations. This looks at recent economic growth for the last 50 years, starting with President Kennedy's administration, but as my colleague from South Dakota said, the average growth for the United States in our 200-plus-year history has been about 3.7 percent GDP growth.

We look at this chart—and this is very bipartisan, of course—almost 4 percent GDP growth average for the country. This is what has made us great, strong. We look at this chart, and it shows the ups and downs. This red line is 3 percent GDP growth, which is considered pretty good. It is not great but pretty good. We certainly should be targeting that.

Look at the Obama administration right here in the corner. It has never even hit 3 percent GDP growth—not once, not even in one quarter—ever.

What we are seeing right here, in the almost 10 years of President Obama, relative to any other administration, Democratic or Republican—Johnson, Nixon, even Carter, Reagan, Clinton, real strong growth there—clearly, the Obama administration has been, by any measure, a lost decade of economic growth. Unfortunately, you don't hear the administration talking about it at all. You can understand why. It is an abysmal record. But the truth is, if you look back in history and that news came out—whether it was a Democratic or Republican administration—the Secretary of the Treasury would have said: Don't worry America, we know you are hurting; we have a plan. The Secretary of Commerce would have said: We have ideas on growing the economy; we know that 0.5 percent GDP growth—essentially flat growth, no growth—is not the historical tradition of America. Historically, Cabinet members in any administration would have told us: We know it is a problem, and here is how we are going to fix it.

When this news came out 2 weeks ago, we heard nothing from this administration—nothing. When they do talk about the economy, there are typically three types of responses: One is, as my colleague from South Dakota mentioned, there is this talk in Washington about the ''new normal.'' In my view, it is one of the most dangerous phrases being bantered about in DC. The new normal says that we know America has been growing at this robust rate, almost 4 percent GDP growth for most of our history, but there are new factors, and we should not expect that anymore. We shouldn't even expect 3 percent. Let's just dumb down our expectations.

They talk about the new normal. The new normal should be about 1.5, 2 percent GDP growth, maybe. The people in Washington are telling the rest of the country: You guys should be satisfied with that. We shouldn't be. That is a surrender of the American dream. So that is one response—the new normal.

The second thing the President has done for a while, but he can't do it anymore, unfortunately. He has looked around the world and said: Well, at least we are growing better than Europe or Japan or Brazil. Really, the only measure that actually matters is not another country; it is how do we stack up against America? He does not want to talk about that, so he talks about Europe. He can't talk about Europe anymore because we are growing at 0.5 percent GDP growth, and last quarter Europe grew at 2.2 percent. It is not great, but it is certainly better than ours. Obviously, they have to get rid of that talking point.

The third thing they do is come out and try to tell us: Hey, you know what, you are actually doing better. I know you are feeling horrible and your wages haven't gone up, but you are doing better, trust me.

In a New York Times article, the President recently lamented that, looking back, he didn't sell all the great stuff he was doing on the economy. He didn't sell it better. I don't think he needs to sell it. Most people feel it, and it is not great. He even said:

> Anybody who says we are not absolutely better off today than we were just seven years ago, they're not leveling with you. They're not telling the truth. By almost every economic measure, we are significantly better off.

I think it is astounding that the President of the United States is saying that kind of stuff to the American people because it is simply not true.

Let me provide some facts. The story they tell is of a country that by almost every economic measure is actually worse off than we were when the Obama administration started. In the past 8 years, the labor force participation rate has slid to its lowest measure since the mid-1970s. Essentially, that is people who have quit looking for a job because they can't find one.

According to the most recent census data, the percentage of Americans below the poverty line in the last 8 years has grown. It is up almost 4 percent. Real median household incomes in the last 8 years have declined from $54,900 to $53,600. Since the President took office, food stamp participation has actually soared. It is up by almost 40 percent. The percentage of Americans who own homes—a marker of the promise of the American dream—is down 5 percent. This is all in the 8 years, 7½ years, since President Obama has been in office.

The late Vice President Hubert Humphrey once said:

> Propaganda, to be effective, must be believed. To be believed, it must be credible. To be credible, it must be true.

No matter how much this administration uses soaring speeches or articles from media sources that have been favorably disposed toward them or

clever tweets insisting that the economy is doing well, it simply is not. These are the facts, and Americans know it. Americans know it.

We are spending more on housing and food. Wages are stagnant. As I have mentioned, many have given up looking for good jobs. Some are questioning the ability to put their kids through college.

What is interesting is that Washington, DC, is doing fine. When you grow the government the way we have in the last 8 years, this part of the country actually never had a recession. It is not one of the richest places in America, right here in Washington, and that is why so many in the DC press corps weren't writing about this. The President says the economy is doing well, so it must be doing well.

I think the good news is that even now the media is starting to pick up on this because the problem is so pervasive. In this election season, this is what we are hearing Americans talk about.

Here is a heading from a recent Atlantic article: ''The lonely poverty of America's white working class.'' Here is another one from the same publication: ''The Resurrection of America's Slums.'' Here is one from another publication: ''Poverty in America: the Deepening Crisis.''

Recently, there have been numerous articles about how poverty leads to addictions and to higher mortality rates. The New Yorker had an article entitled ''Life-Expectancy Inequality Grows in America.''

The Washington Post is now starting to do some heartbreaking stories about poverty, death, and economic despair in our great country. Talking about the recent West Virginia primary election, the Washington Post stated: ''But many poorer, less-educated folks who have been left behind in the 21st century—the ones who have seen their wages stagnate, their opportunities for upward mobility disappear and their life expectancies shorten—are looking to disrupt a status quo that has not worked for them.''

What does this mean for our great country, our citizens? One indication is, in poll after poll, Americans are telling us they are running out of hope. Sixty-five percent of Americans now believe the country is on the wrong track. That is not surprising. We never hit 3 percent GDP growth in the last decade.

The vast majority of Americans don't believe their kids are going to be better off than they are. They are telling us that the quality that has made America great, the quality that is in the DNA of the United States, and that is progress, is losing out to this idea of the new normal. It is a new normal where our children are not going to be better off than we are, where we can't grow the economy. The American dream is all about progress. We need to remember that. We can't settle for another lost decade of economic growth. We can't settle for stagnation.

A number of my colleagues, particularly on the other side of the aisle, come to the Senate floor—and I have respect for everybody in this great body—and they talk about the moral imperatives they believe are important, moral imperative on this topic, moral imperative on another topic, but they rarely talk about the moral imperative of growth and opportunity. To me, that is the biggest moral imperative we have, with the exception of national defense in this body.

It is a moral imperative to recognize that we have experienced a lost decade of economic growth. We have a moral imperative to talk about the pervasive poverty, what that does to our citizens, how it creates holes in the social fabric that holds us together, and how, when our own citizens fall through those holes, a piece of all of us goes with them because although we are individuals, we are all Americans together.

We have a moral imperative to tell our fellow citizens that working together we don't have to accept this, the new normal. We have the moral imperative to lift up American workers with policies that actually help them.

Like most Americans, I was shocked when Presidential candidate Hillary Clinton said that under her administration she would put coal miners out of work. Here is the quote: ''We are going to put a lot of coal miners and coal companies out of business.'' That is shocking. Think about that. I come from a State where there is a lot of mining. These are great jobs. These are important jobs. These are important for the national economy of America. To have a candidate say that she intends to put coal miners out of work is part of the problem.

As Senator THUNE mentioned, the other part of the problem is that Washington is no longer a partner in opportunity for coal miners, for workers, for growing the economy, but it has become an obstacle.

We have to do a lot to get this economy moving. My colleague from South Dakota mentioned a number of ideas. We are going to be on the floor talking about them—the moral imperative to provide economic opportunity and hope for Americans.

One thing for certain we have to do is get control of the Federal Government that wants to regulate every single aspect of our lives and economy. This is a chart that shows how Federal rules from this town go straight up. Every year there are more. As a matter of fact, the Obama administration is going to be the first in U.S. history to have proposed in a single year 80,000 pages of new Federal regs. If you think that is going to help the coal miners or other Americans or working-class families with hope and opportunity, that is not the right solution. What we need is less government and more economic freedom and the truth about what is going on with this great economy of ours in our great country. That is what we are going to continue to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I thank my colleague from Alaska, Senator SULLIVAN, for what he just presented to us here. He hit the nail right on the head. Along with our colleague from South Dakota, I want to add my voice to what has been said here.

As chairman of the Joint Economic Committee, we pay a lot of attention to the state of the economy. We are presented with numbers and facts about where we are as a nation. The refrain that is becoming all too familiar; that is, we really are in a stagnant position, not going anywhere.

Of all the statistics that come to us, two stand out here just recently. One is the fact that the April jobs report was significantly lower than it needs to be in order to provide meaningful jobs for Americans who are searching for jobs, and for Americans trying to move from part-time jobs to full-time permanent jobs, to put some certainty into their lives. With just 160,000 jobs created in April, basically that covers those who are retiring—maybe fewer than that—but certainly not the number of new jobs that give an indication of growth in the economy. That was a disappointing number, and obviously Wall Street paid attention to it. Hopefully it won't be repeated, but it is a worrying signal that we are not creating the kind of dynamic growth in the economy that will put our out-of-work individuals across this country back to work, that will provide opportunities for our young people who are graduating from college and high school this month and next month. That is nowhere near the number of jobs we need to even reach an average growth rate over the years, as my colleague from Alaska said.

I think we have had eleven major recessions from World War II to the present. The recovery rate out of each of those recessions has been at 4 percent. That rate of growth provided new hope for the people who lost their jobs and new hope for those coming out of educational institutions to secure a good job and begin the process of building a family, buying a home, and living the American dream. Yet this recovery—from a recession that began in late 2007 with the collapse of Lehman Brothers and the bank failures has been long. It was a deep recession. And it has taken a considerable amount of time to get moving in the right direction.

Clearly, after the last 7½ years of the Obama administration, we have not begun to achieve the kind of recovery that has been the average of all the recoveries since the end of World War II. We've been about half of that, and because the recoveries have been half of that, we have not been able to provide opportunity for the American people.

I think what we have seen here can best be defined as a result of the failed policies by this administration. We

have policies that have raised taxes significantly on the American people even though their incomes have not increased. We have had policies of overspending here in Washington to the point where our national debt—based on years of deficit spending—has almost doubled from $10.7 trillion when this administration began to over $19 trillion after their 7½ years of governing and putting policies in place that have clearly failed.

You can come to no other conclusion, despite what the White House puts out. The American people know better because their situation is in contrast to the White House saying that things are going well and that we are on the march forward. When the American people compare that with their situation, there is no comparison to be made whatsoever.

Deficit spending, plunging into debt, and overregulation are burdening innovators and burdening businesses from having the ability to expand their business. Overtaxing and clearly overspending. Those three policies determine economic growth.

I have had the great privilege of representing a State that has done just the opposite. Under Republican leadership, our State has controlled spending, controlled regulations, and put innovative processes in place that have allowed our State to thrive and grow. We came out of a deep deficit situation some years ago and have turned that around to the point where we now have a triple-A credit rating. We went from deficit spending, which caused borrowing, to a surplus well over $2 billion. We have become an attractive State to live and do business in.

Let me state a couple of things that have been said about our State. Chief Executive Magazine recently named Indiana one of the top five States in the Nation for business. The magazine asked 513 chief executive officers to rank the States they were familiar with on tax and regulatory regime, workforce quality, and living environment. Let me state a couple of their quotes.

Indiana . . . has its act together and is impressive.

Indiana . . . has consistently ranked in the top 3 in offering not just competitive incentives for business, but also packages that improve the skill sets to hire a qualified, work-ready workforce.

Don Brown, chief executive officer of Indianapolis-based Interactive Intelligence, Inc., recently said that the State's low costs and low taxes allow job creators to invest more resources into their businesses and their employees. He went on to say:

Limited regulations make it easy to grow here, freeing up time, which is perhaps an entrepreneur's most coveted gift. . . . We have great universities turning out lots of talented graduates. . . . The public and private sectors work effectively together in an effort to improve conditions for everybody.

How I wish that quote would reflect what is happening here in Washington. How I wish I could use that quote to say this is what is happening across the United States. I wish I could use that quote to be able to say that under the direction of this President and with the support of this Congress, we have reined in our overspending, tamped down our overregulation, put incentives in place to create jobs, and put policies in place that to create economic growth. Unfortunately, that is not the case, as has been made clear by my colleagues, and the case I am trying to make now.

The contrast between a geographic entity called a State and the Federal Government and the policies which govern that State and govern our Federal Government in the three areas of taxation, regulation, and spending is dramatic. Why wouldn't we look at the States that have succeeded? Why wouldn't we look to the policies implemented by a State that has succeeded and demonstrated dynamic economic growth over the same timeframe as the Federal Government, who has done exactly the opposite relative to taxation, regulation, and spending, and draw the clear conclusion that the policies that have been implemented by this administration have failed?

Let's stop pointing fingers at what the motives are. Let's just look at the results, and the results are very clear: We have a stagnant national economy, people not receiving opportunities to increase their income. If you go back to what the average earnings in America per family were at the start of this administration, it was $3,000 higher than it is today.

Whatever releases come out of the White House or whatever the spokesman for the President says or the President himself says just simply doesn't match up to the facts. The facts are related to the policies that either have been put in place. It is clear that in the remaining months of this administration, those policies are not going to change. Simply there is denial of the fact that the country is not growing at a rate that provides opportunity and gives us hope for the future.

But we do have a model, and my State is not the only model. We have models of States that have done exactly the opposite of that. Yes, they have regulations, but they are there for safety and health. They are beneficial and were not put in place to micromanage how businesses operate. States have been careful with the tax dollars and revenue that come in, and they balance their fiscal budget on an annual basis. They don't throw themselves ever deeper into debt. They recognized that is not the path to growth, and they spend the taxpayers' money wisely.

Overtaxation, overregulation, and overspending clearly are not the path to economic growth. It is clear that the path is just the opposite of that.

In the remaining months I have here, I will keep talking about this issue. I hope my colleagues will pay attention and make decisions on the basis of fact, not on the basis of ideology or what they have been told by the administration or the President. They need to look at the results, and the results are dramatic in terms of application of the basic principles that stimulate economic growth and provide hope for the American people.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

BIPARTISAN STUDENT LOAN CERTAINTY ACT

Mr. KING. Mr. President, when Senators rise on this floor, typically we are identifying problems, we are talking about how to solve them, and we are talking about how prior actions haven't quite worked. Today I have the pleasure of rising for the opposite reason. I am here to talk about something that has worked, something that we did, something that we worked on together on a bipartisan basis that has made an enormous difference for the students of our country.

In the spring of 2013, there was an impending deadline. The interest rate on student loans, which in the past had been set by statute by Congress without regard to what the underlying economics were at the time or what the borrowing rate of the Federal Government was—it was an arbitrary number set by Congress, and it was due to double. In July of 2013, it was due to double to 6.8 percent.

There was a proposal put forward by the leadership and by the Members on this side of the aisle which did not get sufficient votes. There was another proposal put forth by the Senators on the other side of the aisle which also didn't get enough votes. We were left with a situation with no proposal on the floor and an impending deadline that would have doubled rates for student loans for millions of students across the country. At that point, a small, bipartisan group of us got together and said: There has to be a better way to find a solution. We can't let this happen to our students.

This is a particularly important time of the year to talk about this because this is when students are finding out where they are going to college next year, they are making their arrangements for financial aid, and they are thinking about what their commitment will be. Well, as of this afternoon, those students are going to be able to breathe a bit of a sigh of relief because we just learned that the interest rate on student loans taken out for next year based upon the cost of borrowing for the U.S. Government will be 3.76 percent. That is the lowest it has been in a decade, and it is considerably below—by almost half—what it would have been had we not come to that solution on that hot summer day in the middle of the summer of 2013.

The group of people who worked on this and put it together were, as I said, a bipartisan group. The group consisted of Senator RICHARD BURR of North Carolina; Senator MANCHIN; Senator Tom Coburn, my friend from Oklahoma; Senator ALEXANDER; Senator

TOM CARPER; Senator DICK DURBIN; and Senator Tom Harkin. We had a lot of meetings, discussions, negotiations, and ultimately worked together to determine a fair and equitable way to set the rate for student loans from the Federal Government based upon the Federal Government's own cost of borrowing money and combined the best ideas from both plans. We got the strong support of the President, who encouraged the Democratic Members of our group to join in these negotiations, and we reached a consensus. The Bipartisan Student Loan Certainty Act passed this body with something like 80 votes, and that has made a real difference for our students.

Here are some numbers: $50 billion, $5 billion, $275 million. Those are the answers. What are the questions?

The first is, $50 billion is the amount of money students will save over the next 10 years based upon the difference of what the interest rate would have been and what it is going to be. This says 3.8 percent. We made this yesterday. It is actually lower; it is 3.76 percent. But this differential over 10 years equals $50 billion in the pockets of students across this country. That is a $5 billion-a-year difference in what they will have to pay in interest and what they would have paid had the law not been changed. That is an enormous amount of money for our students. In the State of Maine, the New America Foundation has estimated that this translates into over $275 million in interest savings to students just in the State of Maine.

Well, those are big numbers: $275 million, $50 billion, $5 billion. So what does it mean in reality to an individual student? Here is what we are talking about. Under the old law, an individual typical undergraduate would have paid $17,000 in interest as opposed to $10,000. That is at least $6,000 that goes into the pockets of our students. That is going to make a real difference.

I am delighted that we have had this success and that we have been able to report something that has actually been done right around here and then has truly benefited millions of students across this country, but we have plenty of work still to do. College is still too expensive. The burden of student debt generally is very heavy and weighs on not only the students but our economy. We need to reauthorize the Higher Education Act. We need to enact meaningful changes in the whole structure of how colleges can keep their prices affordable. We need to give students the tools they need to succeed. We also need to look at the structure of student loan programs to simplify, A, how you apply, and B, how you pay them back, how the structure is, and have simple, easily understood techniques to pay back according to your means, according to what you are earning at the time, an earnings-based repayment schedule so that students don't exit college with this enormous burden. One student told me: Senator, I feel like I have a mortgage but no house. That is essentially what is happening.

So what I am talking about today is truly good news, but it is not the end of the story and we should not say: Well, we have taken care of that issue. Let's move forward.

I do think every now and then it is important to acknowledge that occasionally the policies work out, and this is one that has worked out spectacularly for the students of America. Fifty billion dollars over the next 10 years will be saved by students who would otherwise be paying that money in interest, and that is money they can invest in their own futures and so can make a better life for themselves, their families, and our country.

I appreciate the opportunity to acknowledge the work that was done by this entire body and by the House and by the President to resolve what would have been a true crisis for our students and to move it toward a much more manageable solution. I look forward to continuing to work on this issue and to keeping in touch with Chairman ALEXANDER and Members of this body who are interested in continuing to work on this issue of the cost of college and how student loans are structured in order to make them work most effectively and fairly for the young people of this country.

Mr. President, 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.

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

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

AMENDMENT NO. 3888

Mrs. FISCHER. Mr. President, I rise today to discuss my amendment No. 3888. I am proud to join my colleagues from Nebraska, Kansas, and Colorado to offer this bipartisan amendment. Our three States are signatories to the Republican River Compact, which allocates the water resources from the Republican River Basin as it travels across our States.

Through this allocation process, our States work closely with the Republican River Compact Administration and the Bureau of Reclamation to help ensure the most efficient utilization of our waters as they head to families and businesses across the region. In Nebraska we value clean water. Our citizens go to great lengths to preserve and protect these resources.

However, in recent years, the Bureau of Reclamation has violated administrative orders issued by Nebraska, Kansas, and Colorado with no justification for their actions. This lack of accountability from the BOR is costing money. It is limiting citizens' access to precious water resources.

Our bipartisan amendment that is before us would halt funding for the BOR when it violates State orders. Federal law already requires the BOR to comply with the States through interstate compacts. Our amendment would hold this agency accountable for its actions. Our States have a right to manage their own water resources for the benefit of compact compliance.

But through its action, the BOR has effectively altered those compacts. This agency was not created to operate unilaterally and exert veto power over the decisions States make to comply with compacts. Our amendment will ensure that Nebraska, Colorado, and Kansas retain control of their waters. It will protect other States that have these interstate compacts from the consequential actions of an unaccountable Federal agency.

Nebraska and its neighbors in Kansas and Colorado are good stewards of natural resources. We protect our water. We protect it at the State and the local levels. These States should be free to preserve their resources without unjustified intervention by the Federal Government. I urge all of my colleagues to consider this amendment, to consider the impact of a Federal agency overreaching and violating the rights of States to determine how to control, how to manage, how to work together, and how to work within compacts in order to meet the obligations they have.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TOOMEY). Without objection, it is so ordered.

DEPARTMENT OF EDUCATION RULEMAKING

Mr. ALEXANDER. Mr. President, I have come across an embarrassing situation. The U.S. Department of Education has apparently earned an F from the nonpartisan Congressional Research Service in its first attempt to write a regulation under the new law fixing No Child Left Behind that passed this body with 85 votes last year, passed the House overwhelmingly, and that President Obama signed into law in December calling it ''the Christmas miracle.''

Most of us will remember this law. I know the Senator from Pennsylvania had a major role in some provisions in it. This was a law to fix a law that everybody wanted fixed. It was 8 years overdue.

The law that needed to be fixed was called No Child Left Behind. Over the last several years, what had happened was that the U.S. Department of Education had become, in effect, a national school board. Everybody was upset with how much those who worked in the Department of Education were telling teachers, school boards, states, and students in 100,000 public schools what to do. They were telling them what to

do about how to evaluate teachers, what to do about what their academic standards should be—adopt common core—telling them what to do about how to use test scores, and saying how to fix a school that might be in trouble. There are seven defined ways to fix a troubled school. People grew so upset with it that we had a massive bipartisan uprising in the Congress.

It is not easy to get 85 Senators on behalf of a big complex piece of legislation, but we did. The Wall Street Journal said that it was the largest transfer of power from Washington, DC, to the States in 25 years. Almost everybody liked it except some people in the U.S. Department of Education, who set about almost immediately to try to rewrite the law as if they had actually been elected to something.

We anticipated that. In this law we took the extraordinary step—we in Congress who under article I of the Constitution are elected to write laws—to write prohibitions into the law.

For example, in the law there is a specific provision that said the U.S. Department of Education may not tell Tennessee or Pennsylvania or any other State what its academic standard must be specifically. It may not tell it that it must adopt common core. That is in the law. That is a specific prohibition.

What I want to talk about today is a report by the Congressional Research Service that Congressman KLINE, chairman of the House Education and the Workforce Committee, and I released today that says in the very first attempt by the Department to write a regulation implementing the new law, they flunked the test. Those are my words, not those of the Congressional Research Service, but their words are nearly as plain as mine.

A new report by CRS says that their proposed ''supplement not supplant'' regulation goes beyond ''a plain language reading of the statute'' and is likely against the law.

Congressman KLINE said:

> The administration spent years dictating national education policy and failed to deliver the quality education every child deserves. Now, the department seems determined to repeat its past mistakes. There is no question this regulation would violate both the letter and intent of the law, and it must be abandoned. Congress and the administration promised to reduce the federal role and restore local control, and we will use every available tool to ensure that promise is kept.

Mr. President, I know, Congressman KLINE knows, and the Members of this body know that a law is not worth the paper it is printed on unless it is implemented properly. I am determined, as the chairman overseeing the Committee on Education, to make sure that this law is implemented properly.

We will have this year six hearings on implementation of this law. There is a coalition of organizations that includes the Nation's Governors, the National Education Association, the American Federation of Teachers, the Council of Chief State School Officers, and others. These are people who don't always agree on education policy. They helped pass this law, and they are equally determined to make sure it is implemented correctly.

They are not just working at a national level. The Governors in Tennessee and in other States are working with coalitions of those same organizations to make sure the law is implemented properly.

On April 12, we had a hearing in the Education Committee, and I talked with the newly confirmed Education Secretary about this. I urged the President to appoint an Education Secretary because I wanted someone there who was accountable to the Senate, and he was confirmed. His responsibility is to discharge his duties faithfully according to the law, but based upon this first regulation, no one seems to be taking that seriously.

Let me be specific about it. There is a provision in the law that goes back to about 1970 that says that if you are going to get money from the Federal Government—we call that title I money—that you have to provide at least comparable services with state and local funding in schools that get the money and schools that don't, except that teacher salaries may not be included in that computation. That is in the law. That has been there for decades now.

Now we had a debate in our committee and on the floor about whether we should change that law. The Senator from Colorado, Mr. BENNET, feels very strongly about it. He said that we ought to change the law to say that teachers' salaries should be included in comparing spending in title I schools and non-title I schools. I had a different proposal. I said: Well, I agree with your point, Senator BENNET, but my proposal I would call Scholarship for Kids. Let's just take the Federal dollars in Tennessee, Pennsylvania, or Maryland and let the States decide to create $2,100 scholarships—the amount it could be—and follow each low-income child to the school that the child attends. Neither Senator BENNET's proposal nor my proposal could be adopted by the Senate. So we did not change the law.

We then put specifically into the law a provision that said to the Department of Education that it may not write a regulation in such a way that requires parity or equal spending among school districts. That is in the law as well. Yet what happens? In the first regulation that the Department of Education sought to do in what we call a negotiated rulemaking process, they came up with a scheme, because as the departing Secretary said, his lawyers are smarter than the people in the Senate or the people who work here. They came up with a scheme and requirements that would violate the law, and the method they chose to require is prohibited by another provision in the law. I don't call that being clever. I call that just ignoring the law, and I am not going to put up with it. I am not going to allow the Department of Education to sit here and watch us in both bodies of Congress—by big bipartisan majorities and supported by Governors, as well as teachers unions—decide that we don't want Washington dictating every little thing that happens in the schools, and as soon as the President himself signs the law, they start rewriting it over in his own Department.

If this one provision, this rule that the Department came up with, were adopted, these are some of the consequences.

It would, No. 1, require a complete costly overhaul of almost all of the State and local finance systems in the country. Maybe they need to be overhauled, but we did not decide that they needed to be, and no one is elected in the Department of Education to require that.

No. 2, it would require the forcing of thousands and thousands of teachers to transfer from one school to another school. Perhaps they should transfer, but there are 100,000 public schools and there are 3.5 million teachers, and we did not decide in our law that they had to transfer, and the Department can't decide that either.

It would require States and local school districts to move back to the burdensome practice of detailing every individual cost on which they spend money to provide a basic educational program to all students, which is exactly what we were trying to free States and districts from under the law. We heard from superintendents and from school boards that this nitpicking, ''mother may I'' approach of the Department bureaucrats was wasting the time of superintendents, school boards, and teachers. So we wrote more flexibility into the law. The Department now wants to take it back.

According to the Council of the Great City Schools, this new proposed rule would cost $3.9 billion just for the 69 urban school systems to eliminate the differences in spending between the schools.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a copy of a statement that Congressman KLINE of Minnesota, the chairman of the House Education Committee, and I made concerning the report of the Congressional Research Service that says likely that the Department has ''exceeded its statutory authority and appears to go beyond what would be required under a plain language reading of the statute.''

I ask unanimous consent to have printed in the RECORD following my remarks a statement I made in connection with the April 12 hearing with our Education Committee in the Senate, when Secretary King testified.

I ask unanimous consent to have printed in the RECORD following my remarks an editorial from the Wall

Street Journal entitled ''Obama's Ed-Run'' that was published on April 18 of this year.

The Wall Street Journal said, among other things, that ''the administration is now rewriting the parts of the law it doesn't like.'' A law passed with big bipartisan majorities.

This is an intolerable situation. This is a complete flouting of the specific bipartisan intent of large majorities of the Senate and the House by a small group of people in a single department who know better than to do this. They know better than to do this. They are ignoring what we have written into law.

They are not elected to anything. If they would like to be in the Congress or the Senate, they can resign their positions and the elections come up this year. They can run, and they can try to change the law. It took us 8 years to debate. We debated these provisions with very good people. The Senator from Colorado, who weighed in on this whole question of parity of spending between school districts, is a former distinguished superintendent of the Denver school district. He feels very passionate about it. I used to be the U.S. Secretary of Education myself. I have a different proposal about how to fix it, and I feel pretty passionate about it. But I feel even more passionate that if we are going to decide the answer to the question, we are going to decide it here, and it is not going to be decided down the street by regulations that are not authorized by law and in a method that is specifically prohibited by the provisions of a law that was signed by the President in December.

So this is the first such regulation, but there will be more. I would hope that the Secretary of Education and the men and women who work for him would stop and take a deep breath and realize that we were serious when we passed this law, that we have the broad support of the entire education community across the board, and that I am not going to rest until I make sure that this law is implemented in the way it was written. That means that we are going to continue to hold the remainder of our six hearings this year. I am going to work with the coalition of Governors, teachers organizations, chief State school officers, and others to put a spotlight on the Department. I am going to urge the State departments of education to begin to write their own state education plans, which they then later submit to the Department in order to obtain their Federal dollars under the law. Then, if the regulations are not consistent with the law, I don't believe they should follow them. That means the State should ask for a hearing. And if the Department persists, then the State should go to court to sue the Department.

If the Department persists, we have our own remedies in the Senate and the House of Representatives. We have something called the Congressional Review Act. It only takes 51 of us to overturn a final rule that we believe is not consistent with the law. We can do that. I will be at the head of the line in trying to do it. We have an appropriations process. The U.S. Department of Education has to come before us and be accountable to us for all of the money they receive.

I expect from here on out for those who write the rules to follow the law. It is not just me saying this, it is not just Congressman KLINE saying this, we have the nonpartisan Congressional Research Service that has examined this regulation. I hope my colleagues will look at this report. They have concluded that the regulation the Department proposed does not follow the plain language reading of the statute that was enacted and signed into law only last December, and is likely against the law.

This is the first shot across the bow, as far as I am concerned. I am going to be watching every single one of these regulations. I hope this does not happen a second or third time or there will be a large number of us seeking to do anything we can do to make sure the law is implemented the way it should be.

This was the most important law passed by the U.S. Congress last year. It affected 50 million children, 3.5 million teachers, and 100,000 public schools. It restored to the people closest to the children the authority for dealing with those children. Everybody wanted that. Virtually everybody wanted that except a few people in the U.S. Department of Education who cannot keep their hands off America's 100,000 public schools. They need to do that. They need to learn to do that. They are supposed to create an environment in which teachers, students, and school boards can succeed; they are not supposed to serve as a national school board.

Congressman KLINE, the chairman of the House committee, and I released this report today. I call it to the attention of my colleagues. I call it to the attention of the Governors, teachers, organizations, and all who care about our schools.

I can guarantee you that we are going to keep our eye on the ball and make sure that future regulations are within the authority of the law we passed and that this law—the most important law passed last year by this Congress and signed by the President—is implemented the way Congress wrote it.

Mr. President, I yield the floor.

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

ALEXANDER, KLINE: NONPARTISAN GOVERNMENT ANALYSIS CONFIRMS EDUCATION DEPARTMENT'S PROPOSED REGULATION IS AGAINST THE LAW

WASHINGTON, May 11.—A new report by the non-partisan Congressional Research Service (CRS) finds the Department of Education's proposed ''supplement not supplant'' regulation goes beyond ''a plain language reading of the statute'' and is likely against the law.

The CRS report was prepared in response to broad congressional interest in the proposed regulation on the new law that replaced No Child Left Behind and whether the department has the legal authority to issue the regulation. The report found that the department's ''interpretation appears to go beyond what would be required under a plain language reading of the statute,'' and that proposed regulation ''appear[s] to directly conflict with this statutory language, which seems to place clear limits on [the Education Department's] authority.'' The CRS report also states that a ''legal argument could be raised that [the Education Department] exceeded its statutory authority if it promulgates the proposed [supplement not supplant] rules in their current form.''

Senate education committee Chairman Lamar Alexander (R–Tenn.) said: ''This report from the non-partisan Congressional Research Service confirms that what the Education Department is proposing is against the law. So now Congress has told the education secretary it's against the law, a government agency has researched it and said it's against the law, and members of the negotiated rulemaking committee who rejected it said it was against the law. I will use every power of Congress to see that this law is implemented the way Congress wrote it.''

House Education and the Workforce Committee Chairman John Kline (R–Minn.) said: ''The administration spent years dictating national education policy and failed to deliver the quality education every child deserves. Now, the department seems determined to repeat its past mistakes. There is no question this regulation would violate both the letter and intent of the law, and it must be abandoned. Congress and the administration promised to reduce the federal role and restore local control, and we will use every available tool to ensure that promise is kept.''

In writing the new law last year, Congress debated and ultimately chose to leave unchanged a provision in the law often referred to as ''comparability.'' This provision in the law says school districts have to provide at least comparable services with state and local funding to Title I schools and non-Title I schools.

A separate provision, known as ''supplement not supplant'' or SNS, is intended to keep local school districts from using federal Title I dollars as a replacement for state and local dollars in low-income schools.

The department's proposed supplement not supplant regulation attempts to change comparability by forcing school districts to include teacher salaries in how they measure their state and local spending and require that state and local spending in Title I schools be at least equal to the average spent in non-Title I schools.

The department proposed the regulation to a negotiated rulemaking committee in March, but the committee could not reach agreement on the proposal. Wisconsin Superintendent Tony Evers, a member of the rulemaking committee, warned that ''Congressional intent isn't necessarily being followed here.''

On the question of the department's legal authority for its regulations, CRS says: ''The Supreme Court often recites the 'plain meaning rule,' that, if the language of the statute is plain and unambiguous, it must be applied according to its terms. Thus, if the language of the statute is clear, there is no need to look outside the statute to its legislative history or other extrinsic sources in order to ascertain the statute's meaning or underlying congressional intent.''

''In the draft proposed rule . . . the Education Department (ED) provided only a limited discussion of how this statutory language gives ED the legal authority to require parity in expenditures in Title I-A and non-Title-I-A schools. According to ED, the reason that the proposal requires that Title I-A schools receive at least as much in state and local funding as non-Title I-A schools is 'so that Title I funds can provide truly supplemental support in Title I schools.' . . . . On its face, however, the plain language of the SNS provisions does not appear to require such a result. Notably, the statutory language does not establish any type of standard or requirement regarding how to demonstrate that a Title I-A school receives all of the state and local funds it would have received in the absence of Title I-A funds. . . . ED's interpretation appears to go beyond what would be required under a plain language reading of the statute.''

On the question of whether the law specifically prohibits the department from requiring equalized spending, the report says: ''(The Every Student Succeeds Act) retained the Title I prohibition that states: 'Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.' The proposed SNS regulations, however, appear to directly conflict with this statutory language, which seems to place clear limits on ED's authority. This prohibition against equalized spending thus raises significant doubts about ED's legal basis for proposing regulations that would require Title I–A per pupil expenditures to meet or exceed those of non-Title–I–A schools. . . . Congress's decision to expressly prohibit ED from requiring equalized expenditures among schools indicates that Congress did not intend to impose such a requirement in the SNS context, particularly in light of the absence of explicit language to the contrary.''

On the question of Congressional intent for the department to address comparability, the report says: ''Meanwhile, the legislative history behind Title I's comparability provisions raises similar questions about ED's legal authority to establish the proposed SNS regulations in their current form. Over the eight-year period during which Congress considered a comprehensive reauthorization of the ESEA, several bills and amendments were introduced that would have modified the comparability provision to require that actual school-level expenditures be used in the determination of comparability, but none of these proposals have been adopted. Most recently, during consideration of S. 1177 in the Senate Health, Education, Labor, and Pensions Committee, Senator Michael Bennet offered and withdrew an amendment to require that comparability determinations be based on state and local per-pupil expenditures (including actual personnel and non-personnel expenditures). Ultimately, the ESSA, which comprehensively reauthorized the ESEA, did not make any changes to the comparability requirement, leaving in place the statutory prohibition on the use of staff salary differentials for years of employment when determining expenditures per pupil from state and local funds or instructional salaries per pupil from state and local funds. In other words, the ESSA did not alter the existing statutory language that prohibits the use of staff salary differentials for years of employment when determining expenditures per pupil from state and local funds or instructional salaries per pupil from state and local funds in making comparability determinations.

''Thus, the proposed SNS regulations appear to effectively require (local educational agencies) to use actual teacher salaries for SNS purposes despite the fact that the ESSA did not address this matter. Because a reviewing court could view this legislative history as relevant evidence of congressional intent to maintain current statutory requirements related to comparability determinations, a court could potentially conclude that ED lacks the statutory authority to attempt to impose a similar requirement via other methods, including promulgation of the proposed SNS regulations.''

The report concludes: ''Based on the plain language of the above provisions in conjunction with the legislative history and the statutory scheme as a whole, it therefore seems unlikely that Congress intended section 1118(b) to authorize ED to establish regulations that would require Title I-A per-pupil expenditures to meet or exceed those of non-Title-I-A schools. Given some of the concerns identified above, it seems that a legal argument could be raised that ED exceeded its statutory authority if it promulgates the proposed SNS rules in their current form.''

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[From the Senate Committee on Health, Education, Labor & Pensions]

CHAIRMAN ALEXANDER: ALREADY ''DISTURBING EVIDENCE'' THAT EDUCATION DEPARTMENT IS IGNORING THE NEW LAW

WASHINGTON, DC, April 12.—Chairman Lamar Alexander (R–Tenn.) today said there is already ''disturbing evidence'' that the Education Department is ignoring the law that Congress passed in December and told the Education Secretary he would use ''every power of Congress to make sure the law is implemented the way we wrote it.''

Alexander said that in a negotiated rulemaking session, ''your department proposed a rule that would do exactly what the law says it shall not do . . . Not only is what you're doing against the law, the way you're trying to do it is against another provision in the law.''

Alexander was chairing the second of six planned oversight hearings on the law passed last year to fix No Child Left Behind. Education Secretary John King was today's witness.

''As Secretary, you have sworn to discharge your duties faithfully, and in your confirmation hearing, you said you would 'abide by the letter of the law.' The importance of the hearing today is to make sure that you and your employees are doing just that,'' Alexander said.

In writing the law last year, Congress debated and ultimately chose to leave unchanged a provision in the law often referred to as ''comparability,'' first put in there in 1970, that says school districts have to provide at least comparable services with state and local funding to Title I schools and non-Title I schools.

The law specifically says that school districts shall not include teacher pay when they measure spending for purposes of comparability.

At today's hearing, Alexander said: ''To accomplish your goals on comparability, you are using the so-called 'supplement not supplant' provision that is supposed to keep local school districts from using federal Title I dollars as a replacement for state and local dollars in low-income schools.

''The department is forcing school districts to include teacher salaries in how they measure their state and local spending and require that state and local spending in Title I schools be at least equal to the average spent in non-Title I schools.''

THE CHAIRMAN'S PREPARED REMARKS ARE BELOW

Mr. Secretary, I urged the president to nominate an Education Secretary because I thought it was important to have a confirmed Secretary when the department was implementing the new law fixing No Child Left Behind.

As Secretary, you have sworn to discharge your duties faithfully, and in your confirmation hearing, you said you would ''abide by the letter of the law.''

The importance of the hearing today is to make sure that you and your employees are doing just that.

Last year this committee worked to pass a bill that fixed No Child Left Behind. The legislation signed by the president passed the House 359–64. It passed the Senate 85–12. The president called it a Christmas miracle.

The reason we were able to achieve such unusual unanimity and consensus is that people had gotten tired of the Department of Education telling them so much of what they ought to be doing.

It wasn't just Republicans or governors who were fed up, it was school superintendents, teachers, principals, parents, state legislatures, school boards, and chief state school officers.

There hasn't been a broader coalition that's helped to pass a law in a long time.

The Department of Education had become a national school board, telling Washington state how to evaluate teachers, telling Kansas what their standards must be, and telling Tennessee how to fix failing schools.

The legislation we passed got rid of all that. And then—it went further—to the extraordinary length of putting in statute explicit prohibitions on the department in anticipation of another effort at regulatory overreach.

It's a dramatic change in direction for federal education policy—the Wall Street Journal read it and said it's the ''largest devolution of federal control to the states in a quarter-century.''

But it isn't worth the paper it's printed on if not implemented properly.

Today, we're holding our second hearing of at least six to oversee the implementation of this law and already we are seeing disturbing evidence of an Education Department that is ignoring the law that each of this committee's 22 members worked so hard to craft.

It wasn't easy to pass a law that most of us could agree to. As I said last year, there were crocodiles at every turn.

One of them was an issue people call ''comparability.'' They're talking about a provision in the Elementary and Secondary Education Act, first put in there in 1970, that says school districts have to provide at least comparable services with state and local funding to Title I schools and non-Title I schools.

The law specifically says that school districts shall not include teacher pay when they measure spending for purposes of comparability.

This committee has debated several times whether or not teacher pay should be excluded. Senator Bennet felt very strongly about his proposal to address this, and I felt strongly about mine.

Ultimately the United States Congress made two decisions about this issue, as reflected in the law we passed:

First, we chose not to change the comparability language in law, so the law still says teacher pay shall not be included:

Second, we added a requirement that school districts report publicly the amount they are spending on each student, including teacher salaries, so that parents and teachers know how much money is being spent and can make their own decisions about what to do with it, rather than the federal government mandating it be used in comparability calculations.

The law that the president signed in December didn't do one thing to change the law that teacher salaries not be included.

But here's what your department did on April 1—you tried to do what Congress wouldn't do in Comparability by regulating another separate provision in the law.

In a negotiated rulemaking session, your department proposed a rule that would do exactly what the law says it shall not do—that is, force districts to include teacher salaries in how they measure their state and local spending and require that state and local spending in Title I schools be at least equal to the average spent in non-Title I schools.

If your proposed rule were adopted, it would:

1. Require a complete, costly overhaul of almost all the State and local finance systems in the country.

2. Require forcing teachers to transfer to new schools.

3. Require states and school districts to move back to the burdensome practice of detailing every individual cost on which they spend money to provide a basic educational program to all students, which is exactly what we were trying to free states and districts from under this law.

4. According to the Council of Great City Schools, it would cost $3.9 billion just for their 69 urban school systems to eliminate the differences in spending between schools.

But I'm not interested in debating today whether what you've proposed is a good idea or a bad one—the plain fact of the matter is that the law specifically says you cannot do it.

Not only is what you're doing against the law, the way you're trying to do it is against another provision in the law.

To accomplish your goals on comparability, you are using the so-called ''supplement not supplant'' provision that is supposed to keep local school districts from using federal Title I dollars as a replacement for state and local dollars in low-income schools.

According to a Politico story published on December 18, the former Secretary of Education said: ''Candidly, our lawyers are much smarter than many of the folks who were working on this bill.''

We in Congress were smart enough to anticipate your lawyers' attempts to rewrite the law.

So we included specific prohibitions in the ''supplement not supplant'' provision that would prohibit you from doing the very thing you have proposed.

Section 1118(b)(4), says ''Nothing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate State and local funds to each school receiving assistance under this part.''; and

Section 1605, says ''Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.''

I'll use every power of Congress to make sure the law is implemented the way we wrote it, including our ability to use the appropriations process and to overturn such regulations once they are final.

In addition, if you try to force states to follow these regulations that ignore the laws we wrote, I'll encourage them to request a hearing with the department. And if they lose, I'll tell them to take you to court.

Second, I'm not the only one who can read the law. You're going to come right up against the broad coalition of groups who helped pass this law—the governors, school superintendents, teachers, principals, parents, state legislatures, and school boards.

They've already sent you a letter saying that ''Regulations and accompanying guidance should clarify how supplement, not supplant is separate and distinct from maintenance of effort and comparability, and steer clear of anything that would change or modify any of those provisions beyond the statutory changes already signed into law.''

Wisconsin Superintendent Tony Evers, a member of the rulemaking committee, said last week that ''Congressional intent isn't necessarily being followed here.''

Noelle Ellerson of the school superintendents association, says that the prohibitions in the law, ''in tandem with Congress' deliberate act of leaving comparability unchanged, makes a seemingly tight case against expanding supplement not supplant.''

You've testified here and in the House of Representatives that you will ''abide by the letter of the law.''

It's not abiding by the letter of the law to require local school districts to use teacher salaries and equalize spending between Title I and non-Title I schools when the law prohibits you from doing that.

It's not abiding by the letter of the law to use the supplement not supplant provision to achieve your goals for Comparability when Congress debated this issue and chose to not make any changes in the law.

I'm making a point of this today because we're at the beginning of the implementation of a law that affects 3.4 million teachers and 50 million students in 100,000 public schools.

I'm determined to see that the law is implemented the way Congress wrote it.

I think it's important at the beginning of this implementation to make sure that you and those who work at the department understand that.

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[From Wall Street Journal, Apr. 18, 2016]

OBAMA'S ED-RUN—THE ADMINISTRATION TRIES TO DICTATE STATE AND LOCAL SCHOOL FUNDING

President Obama has no inhibitions about rewriting laws he doesn't like—even those he's signed. Witness the Administration's revision of the Every Student Succeeds Act to allow the feds to regulate state and local school spending.

The law—which passed Congress last year with large bipartisan majorities—devolved power to the states and rolled back some federal mandates. In doing so, Congress rebuffed the White House's previous attempts to direct local education policy with No Child Left Behind waivers.

Mr. Obama nonetheless hailed the law as a civil-rights success that ''reflects many of the priorities of this administration.'' One notable achievement was giving local school districts more discretion over Title I funds, which target poor students. Federal policy dating to 1970 requires that Title I funds must supplement, rather than supplant, state and local spending.

This requirement isn't controversial, but school districts still complained that the cost of completing the federal paperwork to comply diverted resources from instruction. Congress eased the burden by letting school districts establish their own methodology to show compliance. The law also prohibited the Secretary of Education from prescribing the ''specific methodology a local educational agency uses to allocate State and local funds'' or mandating ''equalized spending per pupil for a State, local educational agency, or school.''

The Administration is now rewriting the parts of the law it doesn't like. The Education Department recently proposed assessing the local school district's compliance with the law by whether a Title I school ''receives at least as much in State and local funding as the average non-Title I school.'' In other words, the Administration is trying to do exactly what the law prohibits it from doing.

Progressives want to force local school districts to equalize spending among schools. Regardless of the policy merits, this is impractical since staff compensation represents more than 80% of school spending. Younger teachers with lower base salaries are more likely to work at low-income schools due to seniority rules in labor agreements and state laws.

This is why the law forbids the feds from considering ''staff salary differentials for years of employment'' when assessing comparability between Title I and non-Title I schools. Mandating equalized spending in Title I schools as non-Title I schools would force states to rewrite their education funding formulas and districts to redo their labor agreements.

Experienced teachers earning higher salaries might have to be forcibly transferred to low-income schools. Or teachers at Title I schools would have to be paid more. Another alternative—and the goal on the left—is to compel school districts to employ more staff at low-income schools. Alas, the quantity of employees is a poor proxy for the quality of education.

This Administration line-item veto violates both the letter and spirit of a law that was intended to reduce federal control over education rather than increase it.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 3871

Mr. CARDIN. Mr. President, I wish to take this time to speak on an amendment I have authored, amendment No. 3871, which will be voted on shortly—at 4:30 p.m. this afternoon.

I was listening to my friend Senator ALEXANDER. I know he was not talking about my amendment—he was talking about a different subject—but I always listen to Senator ALEXANDER because he always makes such important points. I couldn't agree with him more that laws are not worth the paper they are printed on unless they are implemented properly. That was a comment he made. That is the reason I filed amendment No. 3871.

I wish to point out that Congress passed the Fish and Wildlife Coordination Act in 1958. It was that act which requires all Federal agencies to consult with the U.S. Fish and Wildlife Service and the Department of the Interior and the head of the applicable State fish and game departments on water projects.

The concern we have today is that we have many water projects that are being initiated—it could be a dam project, a levy project being done by the Army Corps—and they are required to work with the recommendations of Fish and Wildlife as it relates to the impacts these projects have on fish and wildlife. In fact, they are not doing it. That is the reason I authored this amendment, to carry out congressional intent—not congressional intent—what we wrote into the law so that it is very clear that as part of the consultation, U.S. Fish and Wildlife and the States are to determine the potential impact to wildlife resources, describe the damages that will be caused by the project,

and develop mitigating measures to prevent those damages and improve wildlife resources. That is the current rule.

The problem is that the Federal agencies are not required to adopt the recommendations. I understand that, but they must give the recommendations full consideration, and they are not doing that today. At least they are not doing it as much as we think they should be. That is the purpose for this amendment, to make it clear that we meant what we said when we passed the law—similar to what my good friend said in regard to the education bill we passed last year.

The Fish and Wildlife Coordination Act review is a longstanding and critically important component of water resources planning. Utilization of expert recommendations in these reviews makes sense.

Let me underscore what we are talking about. Water projects are very important. I know that. I serve on the Environment and Public Works Committee, which is the authorizing committee on many of these issues, to get these water projects moving. I understand the challenges. But one of the purposes is to make sure we preserve fish and wildlife.

Every year, hunting and fishing contribute $200 billion to our total economic activity, to our Nation's economy. It is a huge part of the reason we require that type of consultation and working together—in order that when these projects move forward, the recommendations that are made by Fish and Wildlife and our local government entities are totally consistent with our local communities, that they are heeded and taken into consideration so that we not only get the needed water projects but we also preserve our fish and wildlife habitats so that we don't endanger the species as part of the project.

I wish to emphasize that not only is this an environmental issue, this is about State involvement. Not only does the Army Corps need to ensure that projects meet Federal environmental requirements, it needs to respect each State's unique situation. If State fish and wildlife experts express concern about a project, my amendment reiterates what the law already is. The Army Corps must listen. That is what it says. It is as simple as that.

I urge my colleagues to support this amendment. It has the strong support of many of our wildlife federations. The National Wildlife Federation supports it. Izaak Walton League of America, the Theodore Roosevelt Conservation Partnership, Trout Unlimited, and wildlife federations from many of our States support it.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter in support of my amendment.

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

APRIL 25, 2016.

Re: Support Cardin Amendment 3871 to the Energy and Water Appropriations Bill.

DEAR SENATOR: As organizations representing a broad range of conservation, sportsmen and women, recreation, and outdoor interests, we urge you to support Amendment 3871 to the Energy and Water Appropriations Bill. This common sense, cost-effective amendment will protect fish and wildlife, make federal water projects better, and give a real voice to the nation's state and federal fish and wildlife experts.

Every year, hunting and fishing contribute $200 billion in total economic activity to our nation's economy. Ensuring that water resources projects are designed, built and operated to sustain and improve fish and wildlife populations is critical to this economy and to our sporting traditions.

Since 1958, the Fish and Wildlife Coordination Act has fully integrated state and federal fish and wildlife expert review into the Army Corps of Engineers water resources planning process. As part of the water resources project review process, the U.S. Fish and Wildlife Service evaluates the impacts of proposed water resources projects and makes recommendations to reduce the harm to fish and wildlife resources. State fish and wildlife experts are also encouraged to provide input under this process.

Despite the extensive work undertaken by the Fish and Wildlife Service and the states in analyzing projects and developing important recommendations, the Army Corps of Engineers often does not follow the expert recommendations that are developed. When this happens, federal water projects can cause significant, and entirely avoidable, harm to the nation's fish and wildlife. Failing to follow these expert recommendations also leads to mitigation plans that do not work.

Amendment 3871 would ensure that the recommendations of the nation's fish and wildlife experts are fully accounted for during the planning of water resources projects. This is a common sense, cost-effective way to protect our nation's wildlife and make water projects better for all of us. Our organizations urge you to vote yes on amendment 3871.

Respectfully,

National Wildlife Federation, Izaak Walton League of America, Theodore Roosevelt Conservation Partnership, Trout Unlimited, Arkansas Wildlife Federation, Conservation Federation of Missouri, Nebraska Wildlife Federation, North Carolina Wildlife Federation, South Dakota Wildlife Federation, Wisconsin Wildlife Federation.

Mr. CARDIN. I encourage my colleagues to read the language of this amendment. It carries out current law. That is simply what it does. Current law requires this consideration by Fish and Wildlife on these projects.

This amendment makes it clear that we want the Federal agencies to comply with the law. That is why we wrote it that way. And this amendment would make sure the intent of Congress in implementing the statute is, in fact, carried out.

Mr. President, with that, I suggest the absence of a quorum.

The PRESIDING Officer. The clerk 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.

Mr. RUBIO. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

ZIKA VIRUS

Mr. RUBIO. Mr. President, I come to the floor again today to discuss the Zika virus, which has been in the news quite often in my home State of Florida and internationally.

In a moment, I want to enter into the RECORD a number of articles that have appeared just in the last week in papers across the State of Florida.

On May 7, the newspaper in Pensacola had this headline: ''Panhandle conditions create a Zika 'powder keg.''' The argument it makes is that part of the State—as are many of the areas in the South—is an area where you find prevalent a species of mosquito which is the primary one that is now transmitting the Zika virus. It goes on to say that as temperatures rise and rainfall increases—these are the two elements that mosquitoes need to spread. So there is going to be a massive spread—as there is every year—in the specific species of mosquitoes that transmit the Zika virus in the panhandle of Florida.

Mr. President, I ask unanimous consent to have printed in the RECORD the Pensacola News Journal article.

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

[From http://www.pnj.com/story/news/local/2016/05/07/panhandle-conditions-create-zika-powder-keg/83698034/, May 7, 2016]

PANHANDLE CONDITIONS CREATE ZIKA 'POWDER KEG'

(By Carlos Gieseken)

Nine out of 10 mosquito bites in Northwest Florida can be attributed to the culprit known to scientists as aedes albopictus and colloquially as the Asian Tiger.

It is black and white and measures about a quarter of an inch in length. It is the sister to aedes aegypti, best known as the Yellow Fever Mosquito because of its past success at delivering that disease. It is behind the numerous outbreaks that caused panic and killed thousands in Pensacola between 1765 and 1905.

Today the two are once again in the spotlight for all the wrong reasons—they carry Zika, a virus suspected of causing birth defects in Brazil and other Latin American countries as well as the Caribbean.

Aedes aegypti was prevalent in the Florida Panhandle until the mid 1980s, said John P. Smith, a medical entomologist with Florida State University at Panama City who has studied insects that affect public health for more than 30 years.

At that time, the Asian Tiger began to assert itself when it came to the United States from Southeast Asia via the used tire trade.

''They are both bad guys, no doubt about it,'' Smith said. ''Or should I say bad girls. Only the females bite.''

Both mosquitoes also spread yellow fever, dengue and chikungunya.

The Asian Tiger is found in high concentrations on the Gulf Coast, creating a potential powder keg. This is because Zika

spreads when mosquitoes bite multiple people after biting an infected person.

To date, the Panhandle mosquito population has not been infected. According to the Florida Department of Health, there has been one case of Zika in Santa Rosa County in a person who was infected while traveling abroad. As of Friday, there have been 105 travel-related cases of Zika in Florida.

A great deal of media ink and broadcast time has been spent on the disease, but how worried should the Panhandle be?

''I think it is a real concern,'' Smith said, ''and worth doing something to prevent it.''

YEAR-ROUND CONCERN

But mosquito control technicians in Escambia and Santa Rosa counties wage a year-round war against the tiny, slender pests.

When temperatures regularly hit 60 or above in March or April, the teams start spraying to knock out the adult mosquitoes who have hatched and begun their warm weather pursuit for food, i.e. blood.

But during the winter months, even in the coldest frost of January or February, mosquito larvae can lie dormant, stunting their own development to wait for warmer temperatures before emerging.

Keith Hussey and Temika Wilkes are the mosquito control directors at Santa Rosa and Escambia counties, respectively. Their staffs are out inspecting those places where mosquito larvae lie like baby vampires through the brisk weather months.

They inspect drainage ditches, holding ponds and woodland pools. They also do neighborhoods sweeps in search of man-made mosquito nurseries like old tires or other containers, foreclosed homes and abandoned swimming pools.

Larvicide and gambrusia fish, which are the size of guppies and thrive in stagnant water where they feed on mosquito larvae, are effective weapons.

''You can get more mosquitoes killed in a small pond of water than you can when they fly away all over the place,'' said Matthew Mello, Escambia County mosquito control supervisor.

FSU's Smith monitors 12 sites in Santa Rosa County. The mosquito control personnel in that county use his data to help strategize where and when they treat for mosquitoes. He and his staff also test the mosquitoes for diseases they are known to carry.

Escambia County's mosquito control budget for fiscal year 2015 to 2016 is just under $620,000. Santa Rosa County's budget this year is $495,000, and has proposed a budget of $594,518 for next year.

Smith said that because of the size of the area that needs to be covered, ''The programs in Northwest Florida are some of the poorest funded throughout the state.''

Bay County and other counties have specific taxing districts that are used to raise millions of dollars to combat mosquitoes. Their programs include aerial spraying from helicopters and fixed wing aircraft, public education programs and more staff who can cover more area.

The amount of local funding is enough to handle day-to-day and regular mosquito season needs, officials from Escambia and Santa Rosa counties say. But is it enough should a Zika infection break out locally, instead of from a far flung place?

''The county's mosquito control program has adequate funds to fulfill its mission and has successfully protected the residents from disease spread by mosquitoes for many years,'' said Ron Hixon, environmental manager for Santa Rosa County in a statement. ''Every year the county reviews its funding for mosquito control based on prior years mosquito data to ensure adequate funds are available.''

''Please be assured that the Santa Rosa County Environmental Department staff, specifically its Mosquito Control division staff, are actively monitoring the Zika situation and that the SRC Board of County Commissioners are ready to deploy whatever resources are necessary to protect the residents of Santa Rosa County,'' he said.

The Florida Department of Health said in a statement that it has an incident management team in its central office in Tallahassee. It coordinates with the state departments of agriculture and environmental protection as well as the Division of Emergency Management, the governor's office, VISIT Florida and others. Escambia County's Wilkes said ''operations are currently funded at a level that supports effective mosquito control. However, just like during a hurricane or other natural disaster, if we were to have a Zika outbreak and a subsequent state of emergency, we would need additional funding for supplies and overtime costs.''

Mr. RUBIO. The second article says: ''Zika findings could be 'game changers,' opening doors to research.'' It begins by saying:

Two groups of scientists reported Wednesday that fetal mice infected with Zika showed brain damage, a finding that confirms the prevailing view that the virus can disrupt the development of fetal brains in humans and provides a clearer avenue to study the problem.

The work should put to rest lingering doubts in some quarters that the Zika outbreak sweeping through Latin America and the Caribbean is responsible for a surge in babies born with microcephaly and other brain anomalies.

It goes on to quote an associate professor of pathology at the University of Texas Medical Branch in Galveston, who says:

Let me put it bluntly: These are game changers. . . . We need to move forward now.

There is an article dated May 10 in the Miami Herald: ''Two new Zika cases in Miami-Dade raise state total to 109.''

Florida health officials confirmed two new Zika infections in Miami-Dade on Tuesday, raising the statewide total to 109 people who have contracted the virus this year, more than any state.

In Miami-Dade, where most of Florida's Zika cases have been reported, 44 people have been infected with the virus, said the state health department, but the disease has not been transmitted locally by mosquito bites. Broward County has reported 15 cases of Zika.

At about 5 o'clock today, I will meet with the Governor of our State, who is here asking for Federal aid to prepare for and combat the virus in the State of Florida.

The Governor said:

It's going to get warmer, we're going to have more rainfall, we're probably going to see more mosquitoes in our state. Our federal government has a variety of plans they're talking about. . . . We've got to address the Zika issue. Hopefully, we can get ahead of it.

But it isn't just limited to Florida. This is an article from USA TODAY dated May 6, 2016: ''Gulf Coast could be ground zero for Zika.''

The Gulf Coast may know hurricanes, but this year the region of 60 million people could find itself unprepared and at ground zero for a different type of storm: a mosquito-borne Zika epidemic.

A look at the region's urban hubs, small towns and rural outposts shows a patchwork of preparedness. Cities such as Houston have robust plans in place, while smaller towns, such as Corpus Christi, Texas, struggle with fewer resources.

This is just part of painting an overall picture of this very serious problem.

I would just say that the notion that we should only be worried about Florida or the States on the gulf coast alone would not be wise. Mosquitoes that infect people are found in 30 of the 50 States in this country. There are now Zika infections and Zika cases in multiple States across the country.

We now know that Zika isn't just transmitted from mosquitoes but can also be sexually transmitted. In fact, the only case of transmission in Florida was one that was sexually transmitted in Central Florida.

As we debate all these other important issues, this is a looming public health crisis. This is the situation we are now facing in this country. The time to act has come. The moment to act has come because right now in this body and in Washington, DC, we are facing a debate about this issue, about how much money we are going to spend on it.

Look, the President has proposed $1.9 billion to deal with it. About $500 million of that is designed to pay back the Ebola funding that has been used in the short term to fill in the gap, but the rest of it is for real programs that go into dealing with this issue and particularly dealing with it on the island of Puerto Rico, which has been disproportionately impacted. When I hear people say there haven't been any cases of Zika transmitted in the United States, they are wrong. People of Puerto Rico are American citizens. They travel to the mainland extensively. It is our responsibility to also fight and care for them in this process.

But the bottom line is that it is not a question of if, it is a question of when. There will be a mosquito transmission of Zika in the continental United States at some point over next few days, weeks, or months. We cannot get caught unprepared to deal with the consequences. The consequences, by the way, are not just to pregnant women, which in and of itself is reason to act—I don't mean to diminish it. The impact on pregnant women and their unborn children is extraordinary and devastating. The science on that is indisputable. We are seeing evidence of it all across the world and especially the Western Hemisphere being impacted by it. That alone is reason to act. But there is now a definitive link between Zika and Guillain-Barre syndrome, which is a debilitating, often fatal neurological condition that we know is associated with this.

By the way, these children who are being born after being infected in the womb with Zika, we don't know what the long-term prognosis is. Just because they are not born with

microcephaly does not mean they will not suffer from other neurological deficiencies or other neurological conditions in the years to come. We simply don't know. It is not just a first-trimester threat anymore. We now know Zika can be transmitted and can do serious damage in the second trimester as well.

We know that soon the Olympic games will be played in Brazil, and that means hundreds of thousands of people will travel from and through the United States to the Olympics and back. We know we have constant visitors coming in and out of this country. How else would we get 109 cases in Florida? These are people who have either traveled abroad or have been infected by a partner in the one case I have cited.

This is an issue we should jump on with a real sense of urgency. It is a Federal responsibility to be involved in this. It is the job of the Federal Government to keep our people safe from external threats, and Zika today is an external threat spreading to this country—a country that is at the epicenter of global commerce and transit. It is just a matter of time before someone contracts Zika through a mosquito bite in the United States, and we have not prepared for it.

Localities and States are doing the best they can with their limited resources, but they do not have the comprehensive resources the Federal Government can bring to bear. They do not have the resources for research the Federal Government can bring to bear. They do not have the ability to deal with it at the ports of entry the way the Federal Government can. These are important priorities I hope we will move on.

In the last few hours, I have heard encouraging reports that there are a number of efforts going on behind the scenes in the Senate—at least one of them in a bipartisan way—to begin to address this issue. Over the next few hours, we will meet with the different stakeholders and others who are engaged in this issue to see if we can come up with a way forward.

Here is what I hope we will not do. I hope we will not politicize this issue. Zika is not a Republican issue or a Democratic issue. It shouldn't be a campaign issue, although I promise it will become one if we have a Zika outbreak in the United States and we are back home doing our constituent work and not here voting. People are going to ask: Why did you do nothing on this issue? You knew it was coming. It was clearly broadcasted and predicted. All the indicators were there and nothing happened. Inaction on this is, quite frankly, inexcusable. I don't believe voters will excuse us for refusing to act on this.

This should not be a political issue. It should not be a partisan issue. It shouldn't be used for one party to beat up on the other. There are so many other issues we can fight over but not on this—not where the real lives of real people are at stake. My hope is very soon—and I mean in the next couple of days—we can bring before this body a way forward on this issue that brings both parties together and that deals with this public health crisis in a responsible way.

Let me say, look, we are running a debt in this country. So if there is a way to pay for it—and I believe there can be a way to pay for it—I am all for that. I have ideas about how we can come up with some of that money. We can find $1.4 billion, $1.5 billion, $1.9 billion to pay for this, and I think we should endeavor to do so, but even if we cannot, we should never allow the inability to agree on how to pay for it to stand in the way of addressing a public health crisis that threatens to become a public health catastrophe. I prefer that we pay for it. I am for that, but I am not going to let an objection to that stand in the way of addressing this issue.

So through all the other issues we are debating today, from Presidential campaigns to water projects, I still do not believe we have given sufficient intensity, urgency or attention to this burgeoning issue that threatens the safety and security of our people. So it is my hope that over the next few hours and days we can come forward in a bipartisan way with a way forward, and I will continue to work to address and to achieve that.

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

The PRESIDING OFFICER (Mr. GARDNER). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. TOOMEY. Mr. President, I rise to address the issue of vacancies on the Federal bench in the Commonwealth of Pennsylvania.

In the 5½ years I have been in the Senate, I have sought to find common ground with my colleagues on both sides of the aisle, with considerable success—and sometimes we continue to search for that success—whether it is legislation to prevent pedophiles from infiltrating our classrooms or working to fight this terrible scourge of opioid abuse and overdoses in Pennsylvania or trying to keep guns out of the hands of criminals and the dangerously mentally ill.

One of the accomplishments of which I am most proud is the work I have done with Senator CASEY to fill vacancies as they have occurred on the Federal bench in Pennsylvania. Senator CASEY and I have developed a fairly elaborate process. We are blessed to have very talented men and women who have volunteered their time, energy, and expertise to help us identify and vet candidates when a vacancy occurs, to recommend those candidates, and to begin a process by which we can get some of the best and brightest people in Pennsylvania who are able and willing to serve on the Federal bench to do exactly that.

Using this process, Senator CASEY and I have gotten together, we have agreed, and we have recommended to the President, the President has then nominated, and this Senate has confirmed 16 men and women to the Federal bench in Pennsylvania; 14 are district court judges, 2 circuit court judges. There are only two States in the Union that have confirmed more Federal judges in this period of time, and those are the very large States of California and New York, which have had considerably more vacancies. This makes a difference for the people of Pennsylvania.

For instance, because Senator CASEY and I have cooperated this way, we have been able to fill empty courthouses—Federal courthouses which have sat vacant where people do not have convenient access to justice. In the cities of Reading, Williamsport, and Easton, vacant courthouses are no longer vacant because through our work we now have Federal judges sitting, hearing, and trying cases, and providing justice in those communities.

Despite what has been a very successful record so far, we have more work to be done. We have vacancies in Pennsylvania now. As a matter of fact, there are currently four district court—district court—nominations for Pennsylvania that are pending in the Senate. Two are still being reviewed by the Judiciary Committee, and two have been approved by the committee. They have had their hearing, they have had their markup, they have voted, they have been successfully reported out of committee, and they are on the Executive Calendar.

For some time, Senator CASEY and I have been working to get all four of these nominees through the process and confirmed, and I strongly believe all four should be confirmed.

Today, I want to focus in particular on two, and those are the two who have already been successfully reported out of committee. They are now listed on the Executive Calendar. These are vacancies that are especially concerning to me, because in one case the Federal courthouse in Erie, PA—the fourth biggest city in Pennsylvania—has a vacant courthouse. It is vacant. It has been vacant for almost 3 years. For almost 3 years, there has been no Federal judge able to hear cases, and so the people in Erie and the surrounding counties have very long travel distances. They have to go all the way down to Pittsburgh or take a very long drive to get to another Federal courthouse, and that is not right. It is not right for the people of Erie, and it is not right for the people of Northwestern Pennsylvania generally. We

have another district judgeship in the Western District of Pennsylvania that likewise has been vacant for almost 3 years.

Here is what I want to stress: The two nominees for these judgeships who I am talking about would fill judgeships that have been vacant far longer than any other pending on the Executive Calendar. There are other nominees pending on the Executive Calendar. I get that. There are people who want to confirm every one of them. I understand that, but no vacancies have been outstanding for as long as these two vacancies for which we have two qualified candidates who have been successfully reported out of committee, and they are very well-qualified nominees. In fact, I want to talk briefly about each of them.

Judge Susan Baxter has a very impressive 34 years of legal experience, including over 20 years serving as a Federal magistrate judge and over a decade as a practicing lawyer in both the public and private sectors. She spent 3 years as a teacher. She completed her education at two of Pennsylvania's very impressive schools, getting her law degree from Temple and her undergraduate degree from Penn State. Judge Baxter has agreed to sit in the Erie courthouse, which would eliminate the problem of a vacant Federal courthouse in the city of Erie.

Marilyn Horan is the other judge. Judge Horan likewise has extensive legal experience for 37 years, 20 of those years as a judge in the Pennsylvania Court of Common Pleas in Butler County, PA; 17 years as a practicing lawyer, including 14 as a partner in a law firm. Judge Horan likewise attended two terrific Pennsylvania schools. She got her law degree from the Pittsburgh School of Law and her undergraduate degree from Penn State.

There is no question in my mind, both of these women will make outstanding additions to the Federal bench in Pennsylvania. I believe the seats they will fill, if they are confirmed by the Senate, have been vacant too long. Three years is just far too long.

Yesterday my colleague from Pennsylvania, Senator CASEY, made a unanimous consent request for these 2 Pennsylvania judges but also 9 others, for a total of 11. I was not on the Senate floor at the time. Had I been, I would have voiced my support for that request, and I would have agreed to that vote. Unfortunately, Leader MCCONNELL disagreed and raised an objection. So we find ourselves stuck at zero: We have nobody pending for confirmation. We have our colleagues on the other side saying let's have 11 judges confirmed.

I am suggesting a slightly different course. How about we try a step in the right direction? How about we vote on these 2 judges, 2 of the 11? That is not the entire slate, but it is not zero. They are the two judges who would fill the vacancies that have been vacant the longest.

These women represent real bipartisan cooperation. One was initially suggested to the President by Senator CASEY. I suggested the other. One is a Democrat. The other is a Republican. The other seats have had vacancies for far shorter periods of time.

So I think this would be progress if we could simply agree to have a vote on these two nominees, then see where we go from there. Let's get off this all-or-nothing, 0-or-11 situation, and let's confirm the two judges who would fill the vacancies that have lasted the longest.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 460 and 461 en bloc; that the Senate vote on the nominations en bloc without intervening action or debate; that if confirmed, the motions to reconsider be considered made and laid upon the table en bloc; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, reserving the right to object.

On the Executive Calendar, there is a queue of judges who have come out of the Judiciary Committee and are ready for floor action. By my count, along that queue, the two Pennsylvania judges my distinguished colleague refers to are Nos. 9 and 10; Senator JACK REED's and my Rhode Island judge is No. 8. We would very much like to enter into an agreement where these judges start to be moved in regular order—as we often say we like around here—through the queue, as is the tradition in the Senate, so we can get them all cleared.

The senior Senator from Pennsylvania, Mr. CASEY, as the junior Senator mentioned, came here to move a larger block. I would not object to this request if it were amended to include all 10 of those judges on the Executive Calendar, down to and including the two Pennsylvania judges to whom my distinguished colleague refers. That would be Calendar Nos. 307, 357, 358, 359, 362, 363, 364, the all-important 459 from Rhode Island, and 460 and 461.

So if the Senator from Pennsylvania would amend his unanimous consent request to accommodate that, then I would not object.

The PRESIDING OFFICER. Will the Senator so modify the request?

The majority leader.

Mr. MCCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, parliamentary question.

I am not sure whether the majority leader's objection was to Senator TOOMEY's unanimous consent request or to my attempt to modify it. If it was to the former, we are moot, and this conversation has concluded. If not, then I will object if I cannot get the regular order for the judges ahead.

The PRESIDING OFFICER. Objection is heard on the modification.

Mr. MCCONNELL. Mr. President, my understanding—what I intended to do was to object to the modification offered by the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, with that clarification, I must regrettably object to the unanimous consent request propounded by the junior Senator from Pennsylvania. But I do hope very much that we can find a way to work toward getting these judges confirmed. These are judges who came out of the Judiciary Committee, which is a fairly contentious committee, unanimously. They are district judges. If we can't move them, then I suggest the Senate is really not working the way it ought to, and I very much hope we can get to a place where we can move them all.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. MCCONNELL. Mr. President, I think it bears repeating again what I have said the last few days. If you look at the Barack Obama years—he will ultimately have 8 years in the White House—and the George W. Bush 8 years in the White House, and you draw a line at this point in their Presidencies, Barack Obama has gotten 21 more lifetime appointments, Federal judges, than George W. Bush did during the same period. By any objective standard, President Obama has been treated more than fairly during the course of his Presidency—much more fairly than George W. Bush was treated during the same period of his Presidency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I want to make it clear that I did not have an objection to the modification of the unanimous consent request that was made by the Senator from Rhode Island.

I think Senator MCCONNELL makes a valid point about judicial vacancies that have occurred under President Obama. But where we disagree is that I think right before us we have excellent candidates who have been vetted by both sides. They have been chosen by both sides. They have come through the process. They have had their hearings. They have been reported out by the committee. It does not serve the people of the Commonwealth of Pennsylvania to have to continue to wait.

I am not finished in this effort. I am stymied today. I must say that I am disappointed that my friends on the other side can't agree to make some progress. It is not as though I am, for instance, asking that only Republican judges be confirmed or only judges who are chosen by Republicans. I am not

asking that. We have a Democrat and a Republican, chosen by my Democratic colleague and myself, and I understand they are not in the sequence that is traditionally dealt with. But we are at an impasse here. They are the two judges who would fill the vacancies that have lasted the longest, through no fault of their own. I am trying to find a way to get somewhere between 0 and 11, neither of which is accepted. This is a very frustrating and disappointing moment, but I am not going to give up trying.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, let me add to what the distinguished Senator from Pennsylvania has said by noting first that the impasse to which he refers is created by his own leadership, which refused to bring up judges that have come out of the Judiciary Committee unanimously.

There is a problem here. It is one that can be solved within the Republican caucus. We can't very much help with that, but we hope that a solution comes.

The second point is that the question here should not be viewed only as to whether the President is being treated fairly but that there are vacancies on Federal courts, and it is our responsibility to provide advice and consent. We have a duty of fairness to the constituents who have empty seats in courtrooms, and we have a duty of fairness to the candidates—the nominees—who have put their lives on hold with the expectation that they would be treated fairly by the Senate. That is our job—to treat nominees fairly and to see to our constituents' needs. It is not just a question of numbers and who is President.

I yield the floor.

I appreciate the persistence of both colleagues from Pennsylvania, and I am sure we will continue to do this until we make some headway.

The PRESIDING OFFICER. The Senator from North Carolina.

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

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

BIPARTISAN STUDENT LOAN CERTAINTY ACT

Mr. BURR. Mr. President, today is an excellent day for students across the country who are taking out college student loans. For the upcoming school year, the Treasury auction just took place on 10-year notes. Some folks might ask: What is the connection with student loans and Treasury notes?

Three years ago, Senator ALEXANDER, myself, Senator MANCHIN, Senator KING, and others said something very simple: We are going to get politicians out of the business of setting student loan rates, and we are going to let the marketplace do it. That was a wise decision, as was the law we passed—the Bipartisan Student Loan Certainty Act. Since 2013 it has saved students and their parents $36 billion in taking out student loans. We will save another $10 billion again this year. That means that 200,000 North Carolinians—students and their parents—are saving even more on student loans. Those 200,000 North Carolinians take out about $500 million in student loans to attend universities and colleges. Because of this law, they have been saving. Because of today's Treasury auction, they are going to save even more. They are going to save about $1.1 billion across my State alone because of the reduction in the Treasury note from a little over 4 percent on the 10-year to 3.76 today.

Congressional Research Service tells us that about $4,500 less will be paid out for a 4-year degree. I hold this up because I think this is indicative of where we are this year—the lowest student loan rate since the year 2004. I know this is a debate not only within the body of the Senate and the House but also on the campaign trail for our Presidential candidates.

Prior to 2013, interest rates had been written into law by politicians and were essentially set at 6.8 percent. Many of us looked at it and said: This is insane. For the protection of American taxpayers, it ought to be tied to some financial instrument. So we tied it to the 10-year bond. Since that point, taxpayers—specifically, students and their parents—have saved $36 billion because we decoupled it from the political process here.

In fact, those interest rates have dropped significantly since last year—4.29 percent to 3.76 percent today. That means about $40 more per month in the average graduate's pocket. It means $4,500 more overall in saved costs.

What would have happened if we hadn't come together to pass this law? Students would have shelled out another $46 billion in student loan interest payments. This is one thing that Congress can hold up, and we can highlight the fact that we did something responsible. For those who claim we haven't done anything about the high cost of student loans, let me suggest to you that we have done a lot. We have saved parents and students $46 billion. We probably could save them more than that if, in fact, we didn't divert some of the proceeds that the Government gets off of student loans to the Affordable Care Act by about $2 billion a year.

We ran into significant pushback from several Members of this body. In fact, 18 Members of this body, mostly from the other party, opposed this law. The junior Senator from Vermont called it a disaster for young people in our country looking to go to college. This law was also vocally opposed by the senior Senator from Massachusetts. But today, it demonstrates the shortsightedness that was displayed then. Today, because of what we did in a bipartisan fashion passed by this body, parents and students have saved $46 billion, and in North Carolina this next year, it is projected that they will save another $1.1 billion in interest payments on their student loans. This is a day that Congress can be proud of because we have done something good for the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I want to congratulate the Senator from North Carolina. He was the leader in 2013, along with Senator MANCHIN and Senator Coburn, who was here at the time—I was a little bit involved at the time—and Senator ANGUS KING from Maine. We worked with the President and with the House. The Senator is exactly right. The decision that Senator BURR and others made, persuading this Congress and working with the President in 2013 to take the student loan interest rate out of politics and tie it to a certain rate, today reduces the rate by 0.5 percent for nearly 6.4 million students and saves millions and millions of dollars on student loans.

There is a lot of talk about student loans and the cost of them. Some people don't look at all aspects of them. In Tennessee, the independent colleges and universities have pointed out to me that the new overtime rule proposed by the Department of Labor would add as much as $850 per student to the cost of tuition at all of the independent colleges in Tennessee, which is an outrageous thing to be doing.

Here is an example of real leadership, real action, and real results by the Senator from North Carolina, the Senator from Maine, and the Senator from West Virginia, who by their action in 2013, working with the President, have reduced the cost of going to college for 6.4 million American students. A lot of people can talk; some people can get a result.

The Senator from North Carolina, the Senator from Maine, and the Senator from West Virginia got a result. I thank them for it. Let's give credit where the credit is due. President Obama was instrumental in that decision. He worked with Senator Harkin and with others in helping us come to an agreement.

For those who think that things can't get done, things do get done here, and sometimes they help people who would like to have the help. Congratulations to Senator BURR for saving millions of dollars for students who are taking out student loans.

Mr. President, in just a moment, we will have two votes on the Energy and Water appropriations act. The first is on the amendment by the Senator from Maryland, Mr. CARDIN. The second vote is on the amendment by the Senator from Nebraska, Mrs. FISCHER. Other than a voice vote on Senator FLAKE's amendment, those are the last votes on amendments that we have for the Energy and Water appropriations bill.

As soon as the majority leader and the Democratic leader agree that we can schedule the vote on final passage—either later today or tomorrow—

for the first time since 2009, we will have completed an Energy and Water bill in regular order across the floor of the Senate, which every single Member of this body has a chance to participate in, rather than just having the 30 members of the Appropriations Committee and then everybody else being presented with a great big omnibus bill at the end of the year, which they really don't have a chance to change.

Everybody had a chance to weigh in on this. About 80 Senators did before it came to the floor. We will have considered about 21 more amendments. It has been a very good process. There were a couple of bumps, but this is the Senate. We deal with the bumps. I thank Senator CARDIN for his contributions and Senator FISCHER for hers. When we are through with that, we hope to finish the bill.

VOTE ON AMENDMENT NO. 3871

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 3871, offered by the Senator from Tennessee, Mr. ALEXANDER, for the Senator from Maryland, Mr. CARDIN.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

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

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 69 Leg.]

YEAS—39

| | | |
|---|---|---|
| Baldwin | Franken | Nelson |
| Bennet | Gillibrand | Peters |
| Blumenthal | Heinrich | Reed |
| Booker | Hirono | Reid |
| Boxer | Kaine | Schatz |
| Brown | Klobuchar | Schumer |
| Cantwell | Leahy | Shaheen |
| Cardin | Markey | Stabenow |
| Carper | Menendez | Udall |
| Casey | Merkley | Warner |
| Coons | Mikulski | Warren |
| Donnelly | Murphy | Whitehouse |
| Durbin | Murray | Wyden |

NAYS—60

| | | |
|---|---|---|
| Alexander | Fischer | Moran |
| Ayotte | Flake | Murkowski |
| Barrasso | Gardner | Paul |
| Blunt | Graham | Perdue |
| Boozman | Grassley | Portman |
| Burr | Hatch | Risch |
| Capito | Heitkamp | Roberts |
| Cassidy | Heller | Rounds |
| Coats | Hoeven | Rubio |
| Cochran | Inhofe | Sasse |
| Collins | Isakson | Scott |
| Corker | Johnson | Sessions |
| Cornyn | King | Shelby |
| Cotton | Kirk | Sullivan |
| Crapo | Lankford | Tester |
| Cruz | Lee | Thune |
| Daines | Manchin | Tillis |
| Enzi | McCain | Toomey |
| Ernst | McCaskill | Vitter |
| Feinstein | McConnell | Wicker |

NOT VOTING—1

Sanders

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

VOTE ON AMENDMENT NO. 3888

The PRESIDING OFFICER (Mr. LEE). Under the previous order, the question is on agreeing to amendment No. 3888, offered by the Senator from Tennessee, Mr. ALEXANDER, for the Senator from Nebraska, Mrs. FISCHER.

Mrs. FISCHER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—52

| | | |
|---|---|---|
| Ayotte | Fischer | Perdue |
| Barrasso | Flake | Portman |
| Bennet | Gardner | Risch |
| Blunt | Graham | Roberts |
| Boozman | Grassley | Rounds |
| Burr | Hatch | Rubio |
| Capito | Heller | Sasse |
| Cassidy | Hoeven | Scott |
| Coats | Inhofe | Sessions |
| Corker | Isakson | Shelby |
| Cornyn | Johnson | Sullivan |
| Cotton | Klobuchar | Thune |
| Crapo | Lankford | Tillis |
| Cruz | Lee | Toomey |
| Daines | McCain | Vitter |
| Donnelly | McConnell | Wicker |
| Enzi | Moran | |
| Ernst | Paul | |

NAYS—47

| | | |
|---|---|---|
| Alexander | Gillibrand | Murray |
| Baldwin | Heinrich | Nelson |
| Blumenthal | Heitkamp | Peters |
| Booker | Hirono | Reed |
| Boxer | Kaine | Reid |
| Brown | King | Schatz |
| Cantwell | Kirk | Schumer |
| Cardin | Leahy | Shaheen |
| Carper | Manchin | Stabenow |
| Casey | Markey | Tester |
| Cochran | McCaskill | Udall |
| Collins | Menendez | Warner |
| Coons | Merkley | Warren |
| Durbin | Mikulski | Whitehouse |
| Feinstein | Murkowski | Wyden |
| Franken | Murphy | |

NOT VOTING—1

Sanders

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The majority leader.

## UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to executive session for the consideration of Calendar No. 307; that there be 60 minutes for debate only on the nomination, equally divided in the usual form; that upon the use or yielding back of time, the Senate vote on the nomination without intervening action or debate; that if confirmed, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am pleased to report to the Senate, on behalf of Senator FEINSTEIN and myself, that basically we are finished with our work on the Energy and Water appropriations bill. The final vote—all that remains to be done—will be set whenever the majority leader and the Democratic leader agree it can be.

I will have more to say about the bill tomorrow, but I thank Senators for their cooperation on this. If we are able to pass it tomorrow, this will be the first time we have taken this bill—the Energy and Water appropriations bill—across the floor in the regular order since 2009. What that means is that every single Senator has had a chance to weigh in on it—first in the committee, where we received recommendations for policy from 80 or so Senators on both sides of the aisle, and then we processed another 21 amendments here on the floor. I hope it is a good model for the other 11 appropriations bills that we have.

When we voted for the fourth time on whether to end debate on the bill, I was pleased to see that the vote was 97 to 2. I hope that is an indication of what the final vote will be when the leaders set it. I am confident that Senators will vote for it in big numbers because we have had an open and fair process. We have had a full amendment process.

Almost every Senator is represented in the bill, and many Senators have already been home taking credit for what is in the bill. So I hope they will now vote for what they have been taking credit for when they have an opportunity—hopefully tomorrow.

So we will wait to see when the majority leader and the Democratic leader decide to set the vote, but other than the final passage of the bill, we have completed our work on the Energy and Water appropriations bill, and I thank the Senate for the opportunity to do that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am encouraged that the Senate will soon complete consideration of the Energy and Water Development appropriations bill. This legislation funds important components of our national defense, invests in our waterways and flood control infrastructure, and supports a safe and affordable domestic energy supply.