

officials don't seem to care about the harm it will cause. According to a report released by the Senate Homeland Security and Governmental Affairs chairman, the administration has "disregarded . . . concerns and declined to implement recommendations" from career nonpartisan staff and government officials. Not for the first time, this administration is rolling roughshod right over the concerns of too many Americans, including the people it should be working to protect, such as working families and low-income seniors.

That is why I am proud to support this disapproval resolution to block enforcement of this rule. For several years now, letter after letter from Republicans and Democrats went to the administration and the Department of Labor, urging them to rethink this rule. Unfortunately, you can sign on to all the letters in the world opposing a rule, but it all means nothing if you are not there to oppose a rule when it counts—when it comes time to vote. That time is now.

I urge my colleagues on both sides of the aisle to consider the consequences of this rule on middle-class families and our economy and join me in standing up for the middle class by voting for the resolution of disapproval.

Mr. President, I particularly want to commend the senior Senator from Georgia for taking the lead on the effort to overturn this unfortunate rule. He has been the leader on a variety of different issues that are extremely important to his State and to our country, and I commend him for his work on this matter we will be voting on later today.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

LABOR DEPARTMENT FIDUCIARY RULE

Mr. REID. Mr. President, this is a new tack here. The Republican leader appears to say—doesn't appear to say; it is what he said—that a rule would require investment advisers to act in the best interests of their investors. Is there something wrong with that? I don't see it. Imagine, Republicans want investment advisers to act in someone else's interests—namely, their own.

The reason this came to be is that investment advisers are more interested in how much they can make rather than the people who are trying to acquire some assets in their retirement age. This is widely accepted as being important. The only people who oppose it are the investment advisers who are putting money in their own pockets instead of those of the people they represent. They have a fiduciary rule which is unwritten—of course, now it will be written—that you should take your clients' interests first, and that is the way doctors have to operate, as

well as lawyers and accountants. There is no reason that investment advisers shouldn't also be in a position where they are more concerned about their client rather than themselves.

NOMINATION OF MERRICK GARLAND AND THE SENATE SCHEDULE

Mr. REID. Mr. President, tomorrow is the 100th day that there has been a vacancy in the Supreme Court. To his credit, President Obama didn't rush into nominating someone; he took his time and interviewed scores of candidates recommended to him by his staff and Senators and many people around the country. So 30 days after the vacancy appeared, President Obama came forward with Merrick Garland.

If ever there were a consensus nominee, Merrick Garland is that. The head of the Judiciary Committee at the time, the senior Senator from Utah, said: He is a consensus nomination. Why doesn't the President do that?

When the President does, he is suddenly not interested—"he," meaning the senior Senator from Utah.

For 70 days Senate Republicans have refused to do anything to move along Merrick Garland's nomination. They will not look at Garland's questionnaire or study his record. They will not give him a hearing, and they are certainly not going to give him a vote. They are absolutely committed to blocking a vote on this good man. So that is 10 full weeks of Republicans running away from their constitutional duty to provide their advice and consent to President Obama's Supreme Court nomination.

Given Senate Republicans' light work schedule, perhaps it is no surprise that they have not found time to schedule a hearing and a vote on Merrick Garland. They are never here. News outlets are already reporting how little time the Republican Senate will spend in session this year. As one publication, *Politico*, said a few days ago, "The chamber is on pace to work the fewest days in 60 years."

This is what the Senate calendar looks like for 2016, this schedule released by the Republican leader. This is it. If you are wondering about these blocked-out days, that is when we are not in session. That doesn't include the rest of the time around here—or, I should say, barely around here. Mondays—the few Mondays that we are in—basically, nothing happens on Mondays. We get here and vote at 5:30. Fridays, we don't work. As you can see, once in a while they schedule a Friday, but we don't work on Fridays. We are so desperate to get out of here on Thursdays that votes are now scheduled at a quarter to 2—not until 2. We all have caucuses, but we can't wait to jump-start it and get out of here at a quarter until 2.

As I indicated, we see the blacked-out days. These are recess days, days

when the full Senate will not be in session and, of course, not working, not voting. To say we have had a lot of recesses lately is kind of an understatement.

For example, the Republican Senate has worked just 27 days since Merrick Garland was nominated. He was nominated March 16. Remember, on Mondays we don't do much around here. Thursday afternoons, we don't. So we work Tuesdays, Wednesdays, and half a day on Thursday. That is quite a schedule. Had the Senate worked on any of these blacked-out days, we could have had a hearing for Merrick Garland, and we could have scheduled a vote. We also could have worked on any number of important issues Republicans have been ignoring.

What about this Zika virus that is such a concern to health officials around the world? In March, we worked a little bit but not much. But at least in those days, perhaps we could have done something to fund Zika but, no, still playing around with that over here. A big cheer went up when a bill was passed, an appropriations bill, and it had in it a provision for Zika. One problem: That legislation will not be approved until the fall or even the winter. Mosquitoes are now breeding. It is getting warmer. It is going to be 90 degrees in Washington, DC, on Friday. But no one on the Republican side seems to be too worried about that.

We could look again at March. We can pick any month you want, but let's try March. What about Flint, MI? Because of some manipulation by the Governor of the State and others, the people of Flint, MI, suddenly were asked to drink water from a new source. They did not know that water was tainted with heavy volumes of lead. What a shame.

I will never forget what I watched on "PBS NewsHour." A mother was there crying, saying: I wanted to have my two children healthy, so they could not drink any soda pop ever. I helped poison my children because they drank the water of Flint, MI.

We could have done something about that in March, April. Look at the months. But we have done nothing. Not a single penny has gone to Flint, MI. They are using bottled water.

The opioid epidemic—there was a big cheer here: We did something on opioids. The problem is that there is no money. As we speak here today, in the hour we will take up here on the floor this morning before we get to the business of the day, in America about 20 people will die from opioid overdoses. We should be doing something about that, but we are not.

The American people have been saying that the Republicans should simply do their jobs, but, as we have seen from the schedule, it is difficult to do your job when you don't bother to show up to work. The theme for this year's Republican Senate should be "The Republican Senate was not in session." That quote is from me. Remember, this is

the lightest Senate work calendar in some six decades. The Republican leader has the Senate on pace for almost no work and for the most days off in 60 years.

Look at the summer vacation. I think we should be able to get in a few days of leisure during the summer vacation. What do you think? Look at it—7 weeks, including the first week in September. Seven consecutive weeks off—the longest summer recess in many decades. The population of the country has increased in 60 years but not the Senate schedule. The problems of the country have increased in 60 years but not the Senate schedule. The Republican leader didn't have to set such a light schedule. There is no archaic Senate rule that requires the world's greatest deliberative body to go dark for an entire summer. This was his choice.

Do we need all this time off in July for the conventions? I don't think so. We have so many Republicans who are saying they are not even going to the convention. They are embarrassed to be there with Trump, I guess. If they are not going to Cleveland, stay here and work.

The Senate Republicans have already wasted the last 70 days doing nothing on Merrick Garland's nomination. These days are lost. We can't go back to them. But what about the rest of the year? We have all this time to give Judge Garland a hearing and a vote, but we can't consider the nomination if we are not here. The Senate should stay in session until our work is completed.

The President said we shouldn't go home on Thursday. We shouldn't go home until we fund Zika. That is a menace the American people are facing, especially American women. We shouldn't leave town unless we fully fund the President's request of \$1.9 billion. We should not take this summer off while a vacancy remains on the Supreme Court. The Republican leader should not have this body scheduled to work less than any Senate in the last 60 years while so many issues that are important to the American people go unresolved.

Mr. President, will the Chair announce what the Senate is going to do the rest of the day.

RESERVATION OF LEADER TIME

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

The Senator from Georgia.

DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF LABOR—MOTION TO PROCEED

Mr. ISAKSON. Mr. President, I move to proceed to H.J. Res. 88.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 460, H.J. Res. 88, a joint resolution disapproving the rule submitted by the Department of Labor relating to the definition of the term "Fiduciary."

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF LABOR

The PRESIDING OFFICER. The clerk will report the resolution.

The senior assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 88) disapproving the rule submitted by the Department of Labor relating to the definition of the term "Fiduciary."

The PRESIDING OFFICER. Pursuant to the provisions of the Congressional Review Act, 5 USC 801, and following, there will be up to 10 hours of debate, equally divided between those favoring and opposing the resolution.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, H.J. Res. 88 is exactly the same as the resolution of disapproval I introduced in the Senate, but it has already passed the House. So today if we could take a vote and pass it, we could send it to the President, hopefully, for his signature or at least for him to express himself one way or another.

There are nine letters in the word "fiduciary." There are 672 pages of definitions describing that one 9-letter word. This is a solution in search of a problem. It is bad for America, bad for our savers, and makes "too big to fail" even bigger in America today.

I ask unanimous consent to have printed in the RECORD a letter from 461 people of the United States of America who are opposed to this bill.

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

MAY 23, 2016.

TO THE MEMBERS OF THE UNITED STATES SENATE: The undersigned associations, chambers of commerce, organizations, and small businesses are writing to express our deep concerns regarding the U.S. Department of Labor's (DOL) final rule on the Definition of a Fiduciary. This rule disproportionately disadvantages small businesses and those businesses with assets of less than \$50 million, and stifle retirement savings for millions of employees by placing additional burdens on America's leading job creators, small businesses. This will substantially reduce retirement savings for many Americans, and therefore we urge you to support S.J. Res. 33.

On April 6, 2016, the DOL issued a final rulemaking that expands what is considered fiduciary investment advice under the Employee Retirement Income Security Act (ERISA), negatively impacting small business retirement plans and savers with less than \$50 million in assets. Through SEP IRAs and SIMPLE IRAs, small business owners and their employees have accumulated approximately \$472 billion of retirement savings covering more than 9 million U.S. households. The DOL final rule threatens the continued success of these plans and the

ability of small businesses to provide retirement security at a time when millions of Americans have reached or are approaching retirement age. Ultimately, it may even encourage additional saving losses for those who will not be able to access meaningful investment assistance.

First, the final rule makes it harder to provide retirement plans to small businesses or any business that has less than \$50 million in assets (small plans). The broadened definition of investment advice includes routine communications where no intention to provide individualized fiduciary advice has been expected, such as "sales" communications and certain educational materials. However, despite this broad definition, the proposal carves out large plan advisors from this definition. If a fiduciary has \$50 million or more in assets, the advisor to that large plan is exempt from being a fiduciary, while an advisor to a fiduciary with less than \$50 million in assets, which primarily constitutes small businesses, is not.

Because an advisor to plans with less than \$50 million are not carved out of the rule, the advisor who is trying to market retirement savings option to a small plan is considered to be providing investment advice and must determine how to comply with the rule. Due to these additional burdens advisors to small plans are likely to incur additional costs, which will be passed on to the plan. Further, some advisors to small plans may be incentivized to no longer offer their services to small plans if they determine that the small-scale of such plans means the expense and risk of changing business models and fee structures is not justified.

Second, advisors to small plans must either change their fee arrangement or qualify for a special rule called an "exemption" in order to provide services on the same terms as before. The new exemption called the "Best Interest Contract" incorporates many new challenging conditions and requirements that would substantially increase costs for advisors that may ultimately get passed down to small plans or small business employees.

Finally, the final rule limits investment education to IRA owners, including small business employees participating in a SEP IRA or SIMPLE IRA plan. While advisors are permitted to provide model asset allocations appropriate for IRA owners, they are not permitted to help identify specific funds or investment options that correlate to the model asset allocations. This restriction will make it more challenging for small business employees, and may ultimately deter them from saving for retirement altogether.

More complex regulations mean more hurdles and compliance costs and a greater likelihood of litigation. Main Street advisors will have to review how they do business and likely will decrease services, increase costs, or both. Under the final rule, small business SEP IRA and SIMPLE IRA arrangement will become more expensive to serve, meaning that small businesses will ultimately lose access to their advisors and disproportionately bear the costs of excessive regulation. Consequently the DOL's fiduciary rule ultimately harms the very small businesses and workers they are intended to protect. We strongly urge the Senate to take action to help preserve retirement savings for Americans.

Mr. ISAKSON. I want to read one paragraph from the letter because it says better than anything I could say what is wrong with the fiduciary rule that is proposed by the Department of Labor.

First, the final rule makes it harder to provide retirement plans to small businesses or