battlefield. We cannot allow ISIS to use Southeast Asia as Al Qaeda did to plan their next attack on U.S. soil.

Shortly after I sent my letter to President Obama urging him to develop a strategy in Southeast Asia, ISIS claimed another attack, one that took the lives of 10 Filipino civilians. We cannot continue to downplay or ignore this part of the world when it comes to the threat of terrorism.

I stand here today to renew my call for this administration to develop a comprehensive strategy to destroy the enemies abroad who wish to do America harm and those who provide them with a safe haven. As the safe havens Al Qaeda used 15 years ago to target our homeland turned into a staging ground for ISIS, the need to support our allies and address this issue is far too clear.

I thank the Presiding Officer.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

## NOMINATION OF MERRICK GARLAND

Mr. UDALL. Mr. President, this week marks a sad milestone for the U.S. Senate, a milestone of inaction, obstruction, and failure. This week marks 6 months since President Obama nominated Judge Merrick Garland to the Supreme Court. President Obama did his job and his constitutional duty, and Judge Garland should have been confirmed by now. He is eminently qualified. He is a dedicated public servant and a respected judge. Instead, Judge Garland hasn't received a hearing. Today marks 182 days since his nomination, and not even a hearing. In the last 40 years, the average time from nomination to confirmation has been 67 days for a Supreme Court nominee no matter which party has controlled the White House and the Senate. We have always done our job. We have always given a President's nominees a hearing and a vote as the Constitution requires.

After my remarks, I will formally introduce a proposal to change the Senate rules to require that any judicial nominee who has been pending for more than 180 days receive a vote. I do not take this decision lightly, but I fear that a line has been crossed. This level of obstruction will only get worse in the years to come. We should not ever be in this situation again. I urge all of my colleagues to consider this proposal fairly and without partisan interests.

I had hoped that the Senate would act on Judge Garland's nomination. I met with him in May. It was a good meeting. We talked about some areas of the law of particular importance to New Mexicans, including campaign finance reform, tribal law, interstate water issues, and other topics. He is well-versed and well-informed, but he is not prejudging any issue. I really enjoyed the opportunity to get to know him better. He is an exceptional jurist who has dedicated his life to public service. He is a nominee who deserves our respect and a hearing and a vote.

But for several months now, Republicans have argued that President Obama's nominee shouldn't get a vote, that this President shouldn't get the same 4-year term as every other President. They argue that it is better for the Supreme Court to have a vacancy for what is likely to be more than a year. This makes no sense. It is hurting the Court and the American people. It leaves a highly qualified nominee in limbo.

Judge Garland has more Federal judicial experience than any other Supreme Court nominee in history. With many judges, that would be a problem—too many controversial opinions or decisions overturned—but Judge Garland's record is exceptional. He has spent nearly 20 years on the DC Circuit, the court often referred to as the second most powerful in the country. He has participated in over 2,600 merit cases and 327 opinions. He has heard many controversial cases. Yet the Supreme Court has never reversed one of his written opinions. Judge Garland's record demonstrates an incredible ability to build consensus on a wide range of difficult subjects, and his opinions show that he decides cases based on the law and the facts. These are traits which will serve him well as a Supreme Court Justice and, more importantly, which will serve all plaintiffs and defendants who come before him.

Judge Garland's legal career before joining the bench is equally impressive. He was a Federal prosecutor and later served as a high-ranking Justice Department attorney. At Justice, he oversaw major investigations and prosecutions. He led the prosecution of the two Oklahoma City bombers and supervised the prosecution of the Unabomber. He was known for working closely with victims.

But he is more than just an exceptional judge and lawyer; he is a person of high moral character. For the last 18 years, he has tutored students at a local elementary school. He speaks to law students about public service careers. He also regularly speaks about the importance of pro bono services and access to the courts.

Judge Garland is a good American, and he is being treated unfairly. Many Republican Senators are so caught up in the politics that they have even refused to meet him. He is being denied a hearing in the Judiciary Committee, and the majority leader refuses to allow him to receive an up-or-down vote. This is unprecedented obstruction against one of the most qualified Supreme Court nominees in history.

My Republican colleagues will say it is not about Judge Garland. They say President Obama—who still had over 10 months in office at the time he made the nomination—had no right to fill the vacancy. They argue that it is the next President's job. But we are talking about a vacancy that will have been open for almost a year before the next President takes office. This defies common sense and defies historical precedent.

Sadly, obstruction in the Senate is the new normal. Judge Garland is just the most glaring example. A Supreme Court vacancy gets a lot of attention, but our lower courts have been understaffed for years. Right now there are 12 vacancies on the appellate courts, our district courts have 75 vacancies, and 33 of those are considered judicial emergencies because the court is so shortstaffed.

There are many nominees we could vote on today. Twenty-eight judicial nominees are on the Executive Calendar, voted out of committee with bipartisan support, but Republicans have slowed the confirmation process to a standstill.

Last year Senate Republicans confirmed the fewest judicial nominees in more than 50 years—11 for the entire year—matching the alltime record. Only 18 have been confirmed this Congress. Let's compare that to the last 2 years of the Bush administration. With a Democratic majority, the Senate confirmed 68 judges.

All this gets back to something I have discussed since joining the Senate: the need to end the dysfunction so the Senate can work for the American people again. I pushed for reform of the Senate rules in the last three Congresses. We did change the rules to allow majority votes for executive nominees and judicial nominees to lower courts. That was a historic and much needed change. Without it, the judicial system would be even more overburdened. But even that change does no good if the judges remain blocked.

The majority leader is using the power over the calendar as a stealth filibuster, and that is what is happening in this Congress. The line gets longer and longer of perfectly qualified nominees denied a vote, denied even to be heard. Now a seat on the Supreme Court is empty and the majority leader is actually arguing that it should stay empty for over a year in the hopes that maybe a President Trump will be able to fill all of these vacancies that came up during President Obama's term. This isn't governing; this is an unprecedented power play.

Is it any wonder that the American people are frustrated and fed up with political games, with obstruction in the Senate, with special deals for insiders and campaigns that are being sold to the highest bidder? They see this obstruction as just another example of how our democracy is being eroded.

I believe it is so bad that we need a change in the Senate rules to address our broken judicial confirmation process. My suggestion is very simple: If the Judiciary Committee hasn't held a vote on a nominee within 180 days from the nomination, then he or she is discharged and becomes the pending business of the Senate and gets a cloture

vote. It would be the same for nominees voted out of committee but blocked by the majority leader's inaction. After 180 days, they get their vote.

Let me be clear. If this rule is adopted, 180 days should not become the normal time period to confirm nominees. That is the longest it will take, but there is no reason the Senate shouldn't act quicker, as it has done throughout history.

We need to end the stealth filibuster of this President's nominees. No more burying nominees in committee. No more leaving them to languish on the Executive Calendar. The Senate will have to do its job.

Under my rules reform, Judge Garland would have his vote this week, Senators would do our jobs, and the voters would know where we stand. Many other nominees would finally get their votes. There are currently seven appellate court nominees who have been waiting more than 180 days. There are 30 district court nominees, including 5 judicial emergency districts.

Some critics may argue that the tables will be turned and Democrats will object to a Republican nominee. Well, if a nominee is truly objectionable, then any Senator, Democratic or Republican, should convince the majority of the Senate to vote against confirmation. That is how democracy works.

It is time to get our courts fully staffed so our judicial system can do its work. We have already seen the impact of a Supreme Court with eight members—cases sent back to the lower courts without decisions. The Supreme Court isn't taking cases that are likely to deadlock. These are some of the most important cases for them to decide. When we fail to do our job, the justice system suffers and the public suffers. The old saying is so true: Justice delayed is justice denied.

It is time for Senate Republicans to do their job. The Constitution gives the President the responsibility to nominate Justices on the Supreme Court, and the Senate's job is to consider those nominees. The Constitution doesn't say: Do your job except in an election year.

The President has done his job by nominating Judge Garland. Many Republicans expected him to select a highly controversial nominee—someone to energize the liberal base in an election year—but the President took his responsibility seriously. He selected a widely respected nominee with impeccable credentials, a man who should be easily confirmed. It is time for us to take our responsibility seriously, give Judge Garland the hearing he deserves, and allow the Senate to take an up-or-down vote.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

## ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the time from 2 p.m. until 2:25 p.m. be under the control of Senator MANCHIN; further, that the time from 2:25 p.m. until 2:45 p.m. today be reserved as follows: Senator ENZI for 10 minutes and Senators INHOFE and BOXER for 5 minutes each.

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## WATER RESOURCES DEVELOPMENT ACT OF 2016

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2848, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 2848) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Pending:

McConnell (for Inhofe) amendment No. 4979, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Iowa.

### FOREIGN STATE-OWNED COMPANIES

Mr. GRASSLEY. Mr. President, I have been to the floor several times to call attention to foreign state-owned companies' growing investments in American companies and commercial markets. I come to the Senate floor to discuss this further with my colleagues.

It is becoming increasingly clear that foreign state-owned companies are highly involved in international commerce and competing with companies that are privately owned by shareholders with nothing to do with any government. This trend is part and parcel of globalization. While there are some obvious benefits to globalization, we also need to be aware of the challenges it may bring with it, and I think this is one of them.

To give an example, I have seen this trend at work in the agricultural sector of our economy. ChemChina, a Chinese state-owned company, is currently working on a deal to buy the Swiss-based seed company Syngenta. About one-third of Syngenta's revenue comes from North America—meaning the company is heavily involved with American farmers, including Iowans—and that is why I am interested in this transaction.

I have already been considering the approval aspect of this proposed merger. Senator STABENOW and I asked the Committee on Foreign Investment in the United States to review thoroughly the proposed Syngenta acquisition with the Department of Agriculture's help. We have raised the issue because, as I have said before, protecting the safety and integrity of our food system is a national security imperative as well as an economic issue.

There is another aspect of this issue I would like to focus on. I would like to consider the flip side of the approval question. As their involvement in international commerce grows, how can we ensure that foreign state-owned companies are held to the same standards and the same requirements as their non-state-owned counterparts or companies that are in the private sector?

First, consider two age-old principles of international law. One is that American courts don't exercise jurisdiction over foreign governments as a matter of comity and respect for equally independent countries. Each is sovereign. This is called the foreign sovereign immunity. The second is that when foreign governments do in fact enter into commerce and then behave like market participants—conducting a state-owned business, for example—they are not entitled to foreign sovereign immunity because they are no longer acting as a sovereign but rather acting like any business. In that case, they should be treated just like any other market participant. This is called the commercial activity exception to the principle of foreign sovereign immunity.

Congress codified both of these age-old principles in the Foreign Sovereign Immunity Act of 1976. All of these principles are well and good, but I am concerned that in some cases they may not have their intended effects in today's global marketplace.

Some foreign state-owned companies have recently used the defense of foreign sovereign immunity—the principle that a foreign government can't be sued in American courts—as a litigation tactic to avoid claims by American consumers and companies that non-state-owned foreign companies would have to answer. In some cases, foreign state-owned corporate parent companies have succeeded in escaping Americans' claims. They have done this by arguing that the entity conducted commercial activities only through a particular subsidiary, not a parent company often closer to the foreign sovereign. Unless a plaintiff, which may be an American company or consumer, is able to show complete control of the subsidiary by the parent company, the parent company is able to get out of court before the plaintiffs even have a chance to make their case.

This results in two problems. First, there is an unequal playing field, where state-owned companies benefit from a defense not available to a non-state-owned company. Second, there is an uphill battle for American companies and consumers seeking to sue state-