

In short, over the past weeks, I have called repeatedly for a special counsel. My view is that now-Attorney General Sessions must be brought back before the Judiciary Committee and provide an explanation. The lack of a credible explanation makes his resignation necessary, and his denial of contacts raises serious and troubling questions about the process that led to his confirmation. Absent swift action by a special counsel, evidence of this troubling conduct will be at high risk of concealment by the very agency, the Department of Justice, entrusted by the American people to seek and uncover the truth. An impartial, objective, comprehensive, and thorough investigation by a special prosecutor is unquestionably necessary now, and I hope we will have bipartisan support for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, as we near the vote on the nomination of Governor Rick Perry to be our next Secretary of Energy, I want to again reiterate my support for his confirmation.

As I mentioned earlier, Governor Perry has devoted his life to public service. During his 14 years as Governor of Texas, he championed an "all of the above" energy strategy, and led his State to tremendous economic growth. He was a good steward of the environment as he worked to find ways to grow the economy and worked toward achieving major reductions in emission levels in the State of Texas.

As I said this morning, Governor Perry is a principled leader. He will set a good direction for the Department of Energy. I am confident he will pursue scientific discovery, promote innovation, be a good steward of our nuclear weapons stockpile, and make progress on the cleanup of our legacy sites, which we recognize are very important. He will help us build the infrastructure we need to become a global energy superpower and partner with States, like my State of Alaska, that suffer from very high energy costs.

He has a strong record. Governor Perry gets results. He is a competent manager and I think a proven leader. I am pleased to be able to support his confirmation. I know Members from both sides of the aisle agree. I think he will be a good addition to our new President's Cabinet, and I would urge that all Members support his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, speaking in opposition to the Perry nomination, I would say this: We need an Energy Secretary for the 21st century, one who will help protect us by fighting for an electricity grid that will make our entire Internet economy more reliable and safe from cyber attacks. We need someone who is invested in an energy efficiency strategy

that will save our businesses money and make them competitive.

The last two Presidents made energy efficiency a key priority—President Bush by advocating for plug-in vehicles and energy efficiency legislation and President Obama, who made a major investment in the smart grid and made energy efficiency and creating clean energy jobs a top priority for the Nation.

Governor Perry has not committed to those same principles, to move us forward into the 21st century energy economy. We don't want this part of our economy to be left behind to our international competitors.

I encourage my colleagues to oppose his nomination.

The PRESIDING OFFICER. All time is expired.

The question is, Will the Senate advise and consent to the Perry nomination?

Mr. GRASSLEY. 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 bill clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Georgia (Mr. ISAKSON).

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

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 79 Ex.]

YEAS—62

Alexander  
Barrasso  
Blunt  
Boozman  
Burr  
Capito  
Carper  
Cassidy  
Cochran  
Collins  
Corker  
Cornyn  
Cortez Masto  
Cotton  
Crapo  
Cruz  
Daines  
Donnelly  
Enzi  
Ernst  
Fischer

Flake  
Gardner  
Graham  
Grassley  
Hatch  
Heitkamp  
Heller  
Hoeven  
Inhofe  
Johnson  
Kennedy  
King  
Lankford  
Lee  
Manchin  
McCain  
McCaskill  
McConnell  
Moran  
Murkowski  
Paul

Perdue  
Portman  
Risch  
Roberts  
Rounds  
Rubio  
Sasse  
Scott  
Shelby  
Stabenow  
Strange  
Sullivan  
Tester  
Thune  
Tillis  
Toomey  
Udall  
Warner  
Wicker  
Young

NAYS—37

Baldwin  
Bennet  
Blumenthal  
Booker  
Brown  
Cantwell  
Cardin  
Casey  
Coons  
Duckworth  
Durbin  
Feinstein  
Franken

Gillibrand  
Harris  
Hassan  
Heinrich  
Hirono  
Kaine  
Klobuchar  
Leahy  
Markley  
Menendez  
Merkley  
Murphy  
Murray

Nelson  
Peters  
Reed  
Sanders  
Schatz  
Schumer  
Shaheen  
Van Hollen  
Warren  
Whitehouse  
Wyden

NOT VOTING—1

Isakson

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. McCONNELL. Mr. President, I move to reconsider the vote on the

nomination, and I move to table the motion to reconsider.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion was agreed to.

The PRESIDING OFFICER. The majority leader.

DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF DEFENSE, THE GENERAL SERVICES ADMINISTRATION, AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—MOTION TO PROCEED

Mr. McCONNELL. Mr. President, I move to proceed to H.J. Res. 37 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Georgia (Mr. ISAKSON).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) and the Senator from Hawaii (Mr. SCHATZ) are necessarily absent.

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

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—51

Alexander  
Barrasso  
Blunt  
Boozman  
Burr  
Capito  
Cassidy  
Cochran  
Collins  
Corker  
Cornyn  
Cotton  
Crapo  
Cruz  
Daines  
Enzi  
Ernst

Fischer  
Flake  
Gardner  
Graham  
Grassley  
Hatch  
Heller  
Hoeven  
Inhofe  
Johnson  
Kennedy  
Lankford  
Lee  
McCain  
McConnell  
Moran  
Murkowski

Paul  
Perdue  
Portman  
Risch  
Roberts  
Rounds  
Rubio  
Sasse  
Scott  
Shelby  
Strange  
Sullivan  
Thune  
Tillis  
Toomey  
Wicker  
Young

NAYS—46

Baldwin  
Bennet  
Blumenthal  
Booker  
Brown  
Cantwell  
Cardin  
Carper  
Casey  
Coons  
Cortez Masto  
Donnelly  
Duckworth  
Durbin  
Feinstein  
Franken

Gillibrand  
Harris  
Hassan  
Heinrich  
Heitkamp  
Hirono  
Kaine  
King  
Klobuchar  
Manchin  
Markley  
McCaskill  
Menendez  
Merkley  
Murphy  
Murray

Nelson  
Peters  
Reed  
Sanders  
Schumer  
Shaheen  
Stabenow  
Tester  
Udall  
Van Hollen  
Warner  
Warren  
Whitehouse  
Wyden

NOT VOTING—3

Isakson

Leahy

Schatz

The motion was agreed to.

## LEGISLATIVE SESSION

## DISAPPROVING A RULE SUBMITTED BY THE DEPARTMENT OF DEFENSE, THE GENERAL SERVICES ADMINISTRATION, AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The PRESIDING OFFICER. The clerk will report the joint resolution.

The senior assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 37), disapproving the rule submitted by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration relating to the Federal Acquisition Regulation.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I rise today to ask my colleagues to support H.J. Res. 37, a resolution disapproving of the Federal Acquisition Regulation issued by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration.

As is the case in so many of these rules and regulations, it has a really nice name. It sounds really good—the fair pay and safe workplaces rule—but the bottom line is, because of the substance of this rule, it has become commonly known as “the blacklisting rule.” Had it been up to me, I would have called it “the blackmailing rule.” Let me explain why.

It requires contractors and subcontractors submitting bids on Federal Government contracts to disclose any proven or alleged violations within the last 3 years of 14 different labor laws, plus “equivalent State laws.”

Now, that may sound reasonable, but it is not. And it is entirely unnecessary. Any competent purchasing manager—again, I come from the private sector, and there are a lot of competent purchasing managers—could readily obtain the information required by this regulation. And, of course, any competent purchasing manager should also always be evaluating the qualifications, integrity, and the past performance record of any kind of potential suppliers.

This rule also has the very real potential of subjecting perfectly innocent contractors to blackmail and extortion tactics during union contract negotiations.

In case anyone thinks I am overstating this threat, listen carefully to the following quote from one union describing an “ideal message” their union president should convey to a general manager of a business negotiating a union contract:

Putting it plainly: unless you settle this strike within the next few days, and the union withdraws its charges—

Those would be those allegations; unless the union withdraws those charges—

you are likely to be marked as a “repeat labor law offender,” one of the highest cat-

egories of wrongdoing under the President’s Order. Check this out with your hotshot legal team.

This union message goes on:

Counting all of its divisions, this corporation has federal contracts in the hundreds of millions. Do you really want to jeopardize this pot of gold to save a few hundred thousand dollars to the union contract?

This is the kind of negotiating tactic that illustrates exactly how this regulation would be used as a form of federally sanctioned blackmail. There would be no due process for contractors wrongly accused. There would be no way for them to defend themselves or avoid being blacklisted.

As if the blackmail potential of the rule isn’t bad enough, the Obama administration admitted that the final rule would cost at least \$398 million to comply with every single year. And except for the benefit that extortion leverage provides to unions, I can think of no financial benefit to taxpayers or our economy—and neither could the Obama administration, as they were unable to quantify any financial benefit for this rule in their regulatory filings.

In addition to the \$398 million annual regulatory cost, the agencies themselves detailed the following regulatory burdens:

The rule will affect over 24,000 contractors. Industry estimates are even higher.

The rule imposes costly reporting requirements on small businesses that many simply cannot bear.

And it also reduces the availability and increases the price of much needed supplies and services, including to our military.

Others have pointed out even more problems with the rule. For example, it does not define what the “equivalent State laws” are that have been included in the disclosure requirement. Also, the definition of a violation that is reportable is incredibly broad. It is not limited to government contracts and includes pending and other nonfinal disputes—in other words, mere allegations of wrongdoing.

This, in particular, is a slippery slope. For example, in fiscal year 2016, the National Labor Relations Board received over 21,000 unfair labor practice charges, but more than half of those were withdrawn or dismissed, and less than 6 percent resulted in a formal complaint by the NLRB. Also in fiscal year 2016, the Equal Employment Opportunity Commission received over 91,000 complaints but issued a “determination of reasonable cause” in only 3,113—about 3.4 percent of those—and filed enforcement suits in only 114—about 0.1 percent of the 91,000 complaints that were filed.

Various studies report that it costs \$2 trillion per year to comply with Federal Government regulations. That is \$14,800 per family per year. Of course, no one writes a check for \$14,800. Instead, those costs are realized in reduced opportunities, higher prices to

consumers, and stagnated wages and benefits for hard-working Americans.

Economic growth is the primary component of a solution for many of our country’s problems, yet Washington continues to stifle growth by adding layer upon layer of regulation. The blacklisting rule is just one harmful example.

Fortunately, last October, the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction the day before this rule was set to go into effect. The judge issuing the order noted there was merit to the claims that this rule violates statute, exceeds Executive authority, and is unconstitutional. The court found that letting this rule go into effect would cause “irreparable harm.” But the case is still pending. Until we act to decisively repeal this rule, a significant burden hangs over our country’s contractors and suppliers.

Through the use of the Congressional Review Act, we have the opportunity to reduce that regulatory burden and repair a small portion of the damage done by President Obama’s regulatory overreach.

We owe it to the American people and American businesses to start providing them with regulatory relief.

I urge my colleagues to vote yes to disapprove and repeal this very harmful, very costly, and completely unnecessary rule.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I thank the Chair.

## RUSSIA AND THE PRESIDENT’S ADDRESS TO CONGRESS

Mr. President, on Tuesday night, along with my colleagues, I listened to the President of the United States address the joint session of Congress. As the ranking Democrat on the Senate Foreign Relations Committee, I was particularly interested to hear what the President would be saying about American foreign policy.

I heard him say during the speech that American foreign policy would be based on the respect of the sovereign rights of nations, which is something that I strongly believe in. I then thought I would hear the President talk about one of our greatest challenges from a country that is not respecting the sovereign rights of the United States of America, that country being Russia. But the President didn’t mention Russia at all in his State of the Union address, which really surprised me.

When we look at Russia’s most recent conduct and know what they did in regard to their attack on the U.S. democratic election system, it is beyond dispute that they wanted to interfere with our free elections, they wanted to affect the credibility of our democratic election system, and they wanted to influence the outcome of the election. That is pretty clear from the evidence that we have seen to date. Yet