emission free—no sulfur, no nitrogen, no mercury, no carbon. Nuclear power produces 60 percent of all of our carbon-free electricity. TVA is also placing pollution control equipment on all of its coal plants and is completing new natural gas plants. The TVA has done this while reducing its debt and reducing electric rates, which is good news for jobs and economic development in the region. Even if TVA did need more power, which it has said it does not, TVA should not agree to buy more wind power which is comparatively unreliable and expensive.

A look at TVA's previous experience with wind power illustrates how unreliable it can be, especially in our region. In 2001, TVA opened its first commercial-scale wind project in the Southeast. It is generous to say that it has been a failure. This project on Buffalo Mountain near Knoxville has the capacity to generate 27 megawatts of electricity; however, according to TVA, in 2016—last year—the Buffalo Mountain wind turbines produced only 4.3 megawatts on average. Capacity is 27 megawatts and generation was 4.3 megawatts—that is just 16 percent of their rated capacity. In other words, these turbines, which cost as much as $40 million to build and must cost millions more over the life of the contract, produce little electricity and little value to TVA's ratepayers.

Wind usually blows at night when consumers are asleep and don't need as much electricity. Until there is some way to store large amounts of wind power, a utility still needs to operate gas, nuclear, or coal plants when the wind doesn't blow. For example, take a recent TVA peak summer day. On July 26, 2016, Tennessee Valley homes and businesses consumed 29,512 megawatts of electricity—nearly all of TVA's capacity of 33,000 megawatts of electricity. Part of TVA's capacity on that day included contracts for nearly 1,250 megawatts of electricity produced by wind power. However, at the peak demand during the day, when power is most urgently needed, those wind turbines with a rated capacity of 1,250 megawatts actually delivered only 185 megawatts of electricity. So on a day when the Tennessee Valley needed power the most, wind turbines provided less than 15 percent of their rated capacity and less than 1 percent of the total electricity needed to power our region's homes and businesses.

Not only is wind power unreliable, it can be more expensive than nuclear, which also produces zero emissions, or natural gas, which is low emission.

TVA is currently completing a new 900-megawatt natural gas plant for roughly $975 million that will improve air quality in Memphis and be one of the most efficient natural gas plants in the world. Natural gas plants usually operate for at least 30 years and according to TVA can provide power in as little as 20 minutes to meet peak demand during hot summer afternoons and cold winter nights.

Last year, TVA opened the country's first nuclear power reactor in the 21st century, Watts Bar 2, at a cost of $5 billion. Watts Bar 2 will safely provide 1,150 megawatts of power more than 90 percent of the time for the next 40, 60, and possibly even 80 years, all of it emission free, no sulfur, no nitrogen, no mercury, no carbon.

The point is, TVA has concluded that it doesn't need more power for the foreseeable future; therefore, its board should resist obligating TVA's ratepayers for any new large power contracts, much less contracts for comparatively expensive and unreliable wind power. Instead, TVA should continue to provide low-cost, reliable power to the region because that boosts economic development throughout the Tennessee Valley.

I thank the Presiding Officer, and 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. SASSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Under the previous order, all remaining time for debate on H.J. Res. 83 has been yielded back.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. SASSE. 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 assistant bill clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Kentucky (Mr. PAUL).

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—50

Alexander	Fischer	Perdue
Barrasso	Flake	Portman
Blunt	Gardner	Risch
Boozman	Graham	Roberts
Burr	Grassley	Rounds
Capito	Hatch	Rubio
Cassidy	Heller	Sasse
Cochran	Hoeven	Scott
Collins	Inhofe	Shelby
Corker	Johnson	Strange
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Crapo	Lee	Tillis
Cruz	McCain	Toomey
Daines	McConnell	Wicker
Enzi	Moran	Young
Ernst	Murkowski	

NAYS—48

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Booker	Heinrich	Reed
Brown	Heitkamp	Sanders
Cantwell	Hirono	Schatz
Cardin	Kaine	Schumer
Carper	King	Shaheen
Casey	Klobuchar	Stabenow
Coons	Leahy	Tester
Cortez Masto	Manchin	Udall
Donnelly	Markey	Van Hollen
Duckworth	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden

NOT VOTING—2

Isakson	Paul

The joint resolution (H.J. Res. 83) was passed.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move that the Senate proceed to executive session to consider Calendar No. 20, David Friedman to be Ambassador to Israel.

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

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of David Friedman, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 the nomination of David Friedman, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Mitch McConnell, Steve Daines, John Cornyn, Tom Cotton, Bob Corker, John Boozman, John Hoeven, James Lankford, Roger F. Wicker, John Barrasso, Lamar Alexander, Orrin G. Hatch, David Perdue, James M. Inhofe, Mike Rounds, Bill Cassidy, Thom Tillis.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the mandatory quorum call with respect to the nomination be waived.

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

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

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

The motion was agreed to.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to S.J. Res. 34.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 16, S.J. Res. 34, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Federal Communications Commission relating to ''Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.''

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

The motion was agreed to.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION

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

The senior assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 34) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Federal Communications Commission relating to ''Protecting the Privacy of Customers of Broadband and Other Telecommunications Services.''

The PRESIDING OFFICER. The Senator from Arizona.

Mr. FLAKE. Mr. President, I rise in support of my resolution of disapproval under the Congressional Review Act of the FCC's broadband privacy restrictions. As chairman of the Senate Judiciary Committee's Privacy Subcommittee, I have spent more than a year closely examining this issue.

In February of 2015 the FCC, under then-Chairman Tom Wheeler, took the unprecedented step of reclassifying broadband providers as ''common carriers'' under title II of the Communications Act. In other words, on a 3-to-2 party-line vote, the FCC decided that internet service providers should be treated like telephone companies for regulatory purposes. The decision encroached on the Federal Trade Commission's jurisdiction to regulate ISP privacy policies, stripping these companies of their traditional privacy regulator.

Recognizing that his actions to impose net neutrality on ISPs created regulatory uncertainty, last spring Chairman Wheeler began to float the idea of implementing new FCC privacy rules. The FCC decided, again on a 3-to-2 party-line vote, to move forward with the rule change just before election day. The whole process was unsettling, to say the least.

The FCC ultimately decided to commandeer an area of regulatory authority for itself, without any meaningful check on this unilateral action. Once it initiated the bureaucratic power grab, it proceeded to establish new rules restricting the free speech of its regulatory target.

I submitted comments to the agency expressing my constitutional concerns about its proposed rule. I wasn't alone in doing so. Noted Harvard law professor Larry Tribe, hardly one to be confused for a conservative, did the same. But the rules were finalized nonetheless.

While the FCC recently took a step in the right direction by staying the application of the privacy rules, these midnight regulations are still hanging out there. Congress needs to repeal these privacy restrictions in order to restore balance to the internet ecosystem and provide certainty to consumers.

These regulations have altered the basic nature of privacy protection in the United States. For decades, the FTC policed privacy based on consumer expectations for their data, not bureaucratic preferences. These consumer expectations were just common sense: Sensitive data deserves more protection than nonsensitive data.

Unfortunately, the FCC rules dispensed with this commonsense regulatory approach. Under the new rules, what matters isn't what the data is but, rather, who uses it. This creates a dual-track regulatory environment where some consumer data is regulated one way if a company is using it under the FCC's jurisdiction and an entirely different way if its use falls under the FTC, or the Federal Trade Commission.

This is all confusing enough, but it gets worse. In the consumer technology sector, innovation is the name of the game. Companies are constantly rolling out new products and competing to win over consumers. By the same token, consumers are always on the lookout for the newest gadget or app. But the FCC's privacy order makes it increasingly difficult for consumers to learn about the latest product offerings from broadband providers. Instead of being notified about faster and more affordable alternatives for their family's home internet needs, under the FCC's privacy order, Arizonans might get left in the dark.

The FCC's heavyhanded data requirements restrict the ability of broadband providers to offer services tailored to their customers' needs and interests, and they lead to inconsistent treatment of otherwise identical data online. When a regulation diminishes innovation, harms consumer choice, and is just all-around confusing, it is a bad regulation. The FCC's privacy rule for ISPs is a bad regulation.

When it chose to impose needlessly onerous privacy regulations on broadband providers while leaving the rest of the internet under the successful FTC regime, the FCC unfairly picked one politically favored industry—the edge providers—to prevail over a different industry—broadband.

Repealing the FCC's privacy action is a crucial step toward restoring a single, uniform set of privacy rules for the internet. The FTC's privacy rules are the result of an ongoing, data-driven effort to understand and protect consumer expectations. That is the FTC. The FCC's rules, on the other hand, are the hasty byproduct of political interest groups and reflect the narrow preferences of well-connected insiders.

To sum all of this up, the FCC's midnight privacy rules are confusing and counterproductive. This CRA will get rid of it, pure and simple. But let me say what it won't do. Despite claims to the contrary, using this CRA will not leave consumers unprotected. That is because the FCC is already obligated to police the privacy practices of broadband providers under section 222 of the Communications Act, as well as various other Federal and State laws.

Both Chairman Wheeler and Chairman Pai agree on that point. Just last week, Chairman Pai wrote to my friends on the other side of the aisle confirming this legal fact.

This resolution will not disrupt the FCC's power, nor will it infringe on the FTC's jurisdiction elsewhere. Neither will it affect how broadband providers currently handle consumer data. Broadband providers are currently regulated under section 222, and they will continue to be after these midnight regulations are rescinded.

Passing this CRA will send a powerful message that Federal agencies can't unilaterally restrict constitutional rights and expect to get away with it. I urge my colleagues to support this resolution of disapproval.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON. Mr. President, we are talking about taking privacy rights away from individuals if we suddenly eliminate this rule. Do you want a large company that is an internet provider, that has all the personal, sensitive information because of what you have been doing on the internet—do you want that company to be able to use that for commercial purposes without your consent? That is the issue.

If you want to protect people's privacy, I would think you would want to require that an individual who has paid money for the internet provider to provide them with the internet—you go on the internet, and you go to whatever site you want. You do business. You do personal business. You do banking. You go on the internet and you buy things. You talk about your children's school, about when you are going to pick up your children, maybe what your children want to wear to school. You want to talk on the internet about anything that is personal. Do you want that internet provider to have access to