



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 115th CONGRESS, FIRST SESSION

Vol. 163

WASHINGTON, WEDNESDAY, MARCH 29, 2017

No. 55

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Father, our souls long for You, for we find strength and joy in Your presence.

Guide our lawmakers to put their trust in You, seeking in every undertaking to live with honor. When they go through difficulties, may they remember that with Your help, they can accomplish the seemingly impossible. Give them the wisdom to take time to get to know one another, to be quick to listen, slow to speak, and slow to anger. Lord, provide them with a faith that will trust You even when the darkness is blacker than a thousand midnights. May they always find strength in Your providential leading.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. COTTON). The majority leader is recognized.

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

Mr. McCONNELL. Mr. President, I move to proceed to H.J. Res. 67.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to H.J. Res. 67, a joint resolution disapproving the rule submitted by the Department of Labor relating to savings arrangements established by qualified State political subdivisions for non-governmental employees.

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 joint resolution.

The senior assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 67) disapproving the rule submitted by the Department of Labor relating to savings arrangements established by qualified State political subdivisions for non-governmental employees.

The PRESIDING OFFICER. The majority leader.

CONGRESSIONAL REVIEW ACT RESOLUTIONS

Mr. McCONNELL. Mr. President, over the last 8 years, American workers grappled with a sluggish economy and policies that often made it harder for families to get ahead. Even on its way out the door, the Obama administration pushed forward with more unfair regulations that hurt the middle class. It tried to advance regulations that threatened jobs and hindered economic growth. It tried to shift power away from people and toward government on everything from education to land management issues.

Under the guise of helping more people save for the future, it undercut a system of private retirement savings that has served millions of Americans very well for decades. It introduced regulations that would push more and more Americans into government-run retirement plans. These retirement savings regulations are a classic case of

the whole being worse than the sum of its parts.

The Obama administration encouraged States and municipalities to set up government-run retirement plans for private sector workers. Sounds great, some might say, but that is until you see the fine print.

States always had the power to set up these plans, but they chafed at Federal laws protecting the workers who would be automatically enrolled in them. They didn't like that the basic retirement protections that apply to those who manage private sector retirement plans would apply to the government too. So they sought a waiver from long-accepted Federal protections like the requirement to invest prudently and the rule against self-dealing.

That is what these regulations are actually about. They allow States and cities to create an employer mandate that forces private sector workers into these government-run plans. They liberate the States and big-city mayors from Federal consumer protections for these hard-earned dollars, and they create a competitive advantage for these new government-run plans. The end result would be more government at the expense of the private sector.

Fortunately, we can begin to roll back these regulations. We will take a vote today to protect workers should big-city governments try to force their private sector employees to auto-enroll in government-run savings plans. Later, we will advance another CRA to protect workers from similar efforts at the State level.

Congress is able to push back against troubling regulations like these because of the tools provided by the Congressional Review Act, or CRA. Just last week, we sent the 11th CRA resolution to the President's desk, and we hope to add to those regulatory relief efforts again.

I thank Senator HATCH, the Finance Committee chairman, for his leadership on this issue. He understands that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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we need to do more to encourage private retirement savings, and he has advocated numerous policies that would do just that. He also understands that more government involvement in the retirement of private sector workers is not the answer. He introduced companion legislation to the House bills we will vote on soon. We should pass that legislation without delay so that we can, as the chairman said, “give employees and small-business owners more flexibility and freedom to choose how to financially invest and build a nest egg for retirement.”

NOMINATION OF NEIL GORSUCH

Mr. President, on another matter, since Judge Neil Gorsuch was nominated to the Supreme Court, Senate Democrats have searched high and they have searched low for a reason to oppose him. They looked at his background, and they found a Columbia alum, a Harvard Law graduate, and an Oxford scholar. They looked at his reputation and found an impartial and fair judge, an incisive and eloquent writer, and a humble and even-tempered man. They looked at his record as a judge and found someone who follows the facts where they lead without favoring one party over another; someone respected by Democrats, Independents, and Republicans alike; and someone who understands that his role is to interpret the law, not legislate from the bench.

Our colleagues across the aisle also had the opportunity to spend hours with Judge Gorsuch at his confirmation hearing. Once again, they found little to hang their hat on when it comes to a reason to oppose him. Instead, the hearings made clear a point recently stated by a board member of the liberal American Constitution Society: “The Senate should confirm him because there is no principled reason to vote no” on Judge Gorsuch. That was David Frederick, a self-proclaimed “long-time supporter of Democratic candidates and progressive causes” in a recent Washington Post op-ed. This prominent Democrat said he supports Judge Gorsuch because he “embodies a reverence for our country’s values and legal system. . . . We should applaud such independence of mind and spirit in Supreme Court nominees.”

Unfortunately, instead of coming together behind this nominee, some of our colleagues continue to press forward with convoluted excuses as to why they won’t support him.

Just yesterday, my friend the Democratic leader came to the floor to share his reasoning. He talked about the need for the nominee to be independent and impartial. Well, Judge Gorsuch passes that test, and the American Bar Association, the organization revered as the “gold standard” for evaluating judges by the Democratic leader himself and the former Judiciary chairman, certainly agrees. It said: “Based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes

strongly in the independence of the judicial branch of government, and we predict that he will be a strong and respectful voice in protecting it.”

In addition to independence, the Democratic leader talked about his concern that Judge Gorsuch has earned the support of conservatives. Well, that is true. Judge Gorsuch has earned the support of Republicans, just as he has received praise from many on the left as well, like President Obama’s former Solicitor General, Neal Katyal; President Obama’s legal mentor, Professor Laurence Tribe; and left-leaning law professor E. Donald Elliot, among so many others.

The Democratic leader talked about the need for the nominee to offer assurances about how he would rule on a certain case and assurances that he would stand up for certain groups, but, as Judge Gorsuch pointed out, nominees are, to quote Justice Ruth Bader Ginsburg, to offer “no hints, no forecasts, no previews” on how they would rule in certain cases. Similarly, judges are to decide cases based on the facts, not personal views or political preferences.

Finally, the Democratic leader talked about the importance of a nominee’s record. Well, I would like to take a moment to remind my colleagues of Judge Gorsuch’s record. He said at his hearing:

I have decided . . . over 2,700 cases, and my law clerks tell me that 97 percent of them have been unanimous, 99 percent I’ve been in the majority. They tell me as well that, according to the Congressional Research Service, my opinions have attracted the fewest number of dissents from my colleagues of anyone I’ve served with that they studied over the last 10 years.

To sum it up, more than 2,700 cases, in the majority on 99 percent of them, and part of a unanimous ruling on 97 percent of them—it simply doesn’t get much better than that. No wonder the ABA gave him its highest rating: unanimously “well qualified.”

So when we hear our Democratic colleagues talking about breaking longstanding precedent to oppose this non-controversial, outstanding judge by mounting the first-ever purely partisan filibuster to try to defeat his nomination, we can only assume one thing: This isn’t about the nominee at all; it is about a few on the left whose priority is to obstruct this Senate and this President whenever and wherever they can. Months after the election, they are still in campaign mode, calling for Senate Democrats to obstruct and to resist.

Let’s be clear. These leftwing groups aren’t concerned by the qualifications of this judge. They aren’t looking out for what is best for the Court, for the Senate, or for the country. They simply refuse to accept the outcome of last year’s election.

We realize the enormous pressure our Democratic colleagues are under. It is why we are hearing talks of some mythical 60-vote standard that doesn’t exist. Just ask fact-checkers who have

repeatedly debunked that idea. A 60-vote threshold has never been the standard for a Supreme Court confirmation—not for President Clinton’s Supreme Court nominees in his first term and not for the Supreme Court nominees of a newly elected President Obama, either.

As the Washington Post Fact Checker reminded us again just this very morning, “Once again: There is no ‘traditional’ 60-vote ‘standard’ or ‘rule’ for Supreme Court nominations, no matter how much or how often Democrats claim otherwise.”

So I would ask our Democratic friends, do they really want to launch the first wholly partisan filibuster of a Supreme Court nominee in American history? Do they really think history books or the American people will look kindly on them for filibustering this amazingly well-qualified and widely respected nominee?

Judge Gorsuch has earned an enormous amount of praise from across the political spectrum and from a wide array of publications all across our country, like The Chicago Tribune, which recently called for his confirmation, saying that Judge Gorsuch “has shown himself to be committed to the principle that judges should rule on the law as written, and apply it equally to all.”

The newspaper The Detroit News said Judge Gorsuch “is proving himself an even-tempered, deeply knowledgeable nominee who should be confirmed by the Senate. The hearings confirm,” it said, “that Gorsuch is [eminently] qualified, and there is nothing radical in his judicial history.”

In the Denver Post: “As we’ve noted several times in the run-up to Gorsuch’s confirmation hearings, the 10th Circuit judge possesses the fairness, independence and open-mindedness necessary to make him a marvelous addition to the Supreme Court.”

The Post went on to say that Senators should not “[miss] the chance to rally behind Gorsuch—who has been roundly praised here by Democrats and Republicans alike.” In other words, Judge Neil Gorsuch should be treated fairly, receive an up-or-down vote, and be confirmed to the Supreme Court, just like all four first-time Supreme Court nominees of Presidents Clinton and Obama.

Again, as even those on the left can’t help but admit, “there is no principled reason to vote no” on Judge Gorsuch. It is a sentiment we have heard from many of our colleagues here on the floor as we have been debating Judge Gorsuch’s nomination over the past few weeks.

As we wait for the Judiciary Committee to report out his nomination, I would encourage Members of both sides to continue to take advantage of available floor time to discuss this important issue. I would also remind Senators that we will have all of next week—all of next week—to continue debating Judge Gorsuch’s nomination

as well. I look forward to hearing from our colleagues as we work to advance this extremely well-qualified nominee.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

BIPARTISANSHIP

Mr. SCHUMER. Mr. President, I rise this morning on a few topics, but I first want to mention that last night many of us spent some time at the White House where we were regaled by the wonderful Marine and Army chorus, where there was talk about renewing a spirit of bipartisanship in Washington.

I am all for it. Of course, we Democrats hope that the President and Republicans in Congress will sit down with us in a true spirit of bipartisanship because so far in this Congress—the Republicans in this Congress so far—the Republican idea of bipartisanship has meant to both the President and the Republicans in Congress: We come up with our plan, and you Democrats should support it. That is not bipartisanship.

The Republican leader, the House Speaker, have come up with issue after issue, including a Supreme Court nominee, with no Democratic consultation, and then said: The only way you can achieve bipartisanship is just to vote with us.

You can't improve the healthcare system with only Republican votes on reconciliation, without consulting any Democrats, without a single sentence of Democratic input, and call that an attempt at bipartisanship.

You can't do an infrastructure package of tax credits and no real spending, and then ask for bipartisan support. And you certainly can't out-source your entire selection of Supreme Court Justices to be handpicked by the hard-right, special interest-dominated Heritage Foundation and Federalist Society, and then ask for us to vote for that nominee as a show of bipartisan support.

Bipartisanship means sitting down with the other side, getting our ideas, and hashing out a compromise. It does not mean proposing your policy—particularly when these policies and nominees are so far to the right—and then making an exhortation for bipartisanship and bemoaning the absence of it when Democrats don't go along with your way. I truly hope that the President and Republicans want to renew a spirit of bipartisanship, but it has to be real, it has to be meant, and their actions have to follow suit.

NOMINATION OF NEIL GORSUCH

Well, Mr. President, let's talk about the Supreme Court because that exemplifies exactly what I am talking about. Over the last several weeks, my Republican friends have tried to paint Judge Neil Gorsuch as the beau ideal of a neutral and impartial judge. They insist that Judge Gorsuch is a straight down-the-middle guy, someone who will call the balls and strikes. The majority leader likes to cite a letter of a

friend of the judge who says “there is no principled reason” to oppose his nomination. Of course, there are several principled reasons to object to Judge Gorsuch. Today I would like to focus on one in particular: Judge Gorsuch's long career ties to conservative interests and conservative ideological groups.

The idea that Judge Gorsuch would simply be a neutral, mainstream Justice is belied by his career, his judicial record, and, perhaps most of all, the manner by which he was selected to serve on the Supreme Court. He was culled from a list handpicked by the Federalist Society and the Heritage Foundation, conservative organizations that have spent the last few decades simply trying to shift the balance of the courts way to the right. Most of my colleagues on the other side know how far to the right the Heritage Foundation is, and they often grumble at how they are pulling the party too far over, but Judge Gorsuch was handpicked by that group, along with the Federalist Society.

Instead of consulting the Senate, President Trump outsourced his Supreme Court pick to the Federalist Society and the Heritage Foundation long before an election even took place. The Constitution does not say the President shall appoint the Supreme Court Justices with the advice and consent of rightwing special interest groups. It says he should appoint them with the advice and consent of the Senate. President Trump didn't consult the Senate; he never even considered it. He just consulted this list.

Surely my dear friend from Utah, Senator HATCH, must remember when President Clinton consulted him about his Supreme Court picks. Senator HATCH told the President not to select Bruce Babbitt and offered instead the names of Ginsburg and Breyer. President Clinton listened to Senator HATCH and nominated them instead. Surely my good friend from Utah also remembers when he suggested to President Obama that Merrick Garland be nominated to the Supreme Court, calling him a fine man. President Obama listened and made him his pick.

President Trump is different from all of the past Presidents in so many ways, so many of them unfortunate, and here is one: Even before being elected to office, President Trump swore off the entire process and outsourced the advice and consent process to a list selected by two ultraconservative organizations.

Take the Heritage Foundation, for example. Are they down the middle? Are they unbiased? Well, let's listen to some of the things they believe in, which are way different from most Americans. It is a group that believes “freedom” means businesses have the right to discriminate against LGBT people. This is a group that believes “limited government” means eliminating resources for the Violence Against Women Act. This is a group

that believes a strong national defense means discriminatory Executive orders that bar immigrants and refugees from Muslim-majority countries. This is a group that holds extreme-right positions, a group that is far, far out of the American mainstream—and is even out of the Republican mainstream so many times—and they have handpicked Neil Gorsuch to have a seat on the highest Court in the land.

Does anyone think the Heritage Foundation or the Federalist Society would put on their list a judicial moderate who would only call balls and strikes? Does anyone think there would be all this outside, dark, undisclosed money being spent to support Judge Gorsuch's nomination if he were just someone who called balls and strikes? No. There is a reason all of this dark money is being spent to support him. There is a reason the Federalist Society and the Heritage Foundation liked Judge Gorsuch enough to put him on the President's short list. There is a reason the President pledged to select only from this list. He wanted to curry favor with skeptical hard-right, special interest-dominated conservatives during his campaign. So the idea that Judge Gorsuch would simply be some neutral Justice does not hold water.

When Republicans say that if Democrats will not support Judge Gorsuch, we will not support any Republican-nominated judge, that is simply not true. We have several reasons to be concerned with Judge Gorsuch specifically, and specifically one of those things we are concerned about is that he was pushed forward from the Heritage Foundation and Federalist Society, groomed by billionaire conservatives like Mr. Anschutz, another hard-right, special interest person.

Judge Gorsuch had a chance. Most of us waited till after the hearings because at the hearings he had a chance to distance himself from these views, but he refused to substantively answer question after question.

So if Judge Neil Gorsuch fails to reach 60 votes, which, by the way, the American people believe is the appropriate standard for a Supreme Court nominee, it is not because Democrats are being obstructionists; it is because he failed to convince 60 Senators that he belongs on the Supreme Court. In that event, the answer is not to permanently change the rules and traditions of the Senate; the answer is to change the nominee and do what President Clinton and President Obama did before they nominated people: Consult the other party for some semblance of bipartisanship.

The majority is trying to make this a binary choice: Confirm Gorsuch or change the rules. It is not so; it is just not so. The idea that if Judge Gorsuch can't get 60, we must immediately move to change the rules is a false narrative. If the majority chooses to go that route, they do so at their own volition. No one is forcing them to do so,

except maybe the Heritage Foundation and groups like the Federalist Society.

BORDER WALL

Mr. President, there is one thing I want to say about the wall. I talked about the wall yesterday, and I am not going to elaborate, but I would like to add to the RECORD a quote about the wall from none other than the Secretary of Interior, former Republican Congressman, Mr. Zinke, from Montana. Here is what he said. This is his quote about the wall, and I hope my colleagues will listen:

The border is complicated, as far as building a physical wall. . . . The Rio Grande, what side of the river are you going to put the wall? We're not going to put it on our side and cede the river to Mexico. And we're probably not going to put it in the middle of the river.

AFFORDABLE CARE ACT

Mr. President, finally, on the Affordable Care Act, today, 44 Senate Democrats are sending a letter to the President who puts onto paper our official offer to work with him to improve the existing law.

Last Friday, in the wake of TrumpCare's defeat in the House, I was deeply concerned to hear the President say that he wants the Affordable Care Act to "explode." The President and his HHS Secretary, Tom Price, have significant latitude to either improve the law or undermine it. So far, the President has undermined the law. These were all before the vote: He discontinued the advertising campaigns to get people to sign up for coverage and worked behind the scenes to give insurers flexibility to offer less generous care, and, still, the President's Executive order directing agencies to help him repeal and replace the ACA is hanging out there after the defeat or lack of a vote in the House, causing instability in the market and giving Federal agencies permission to undermine the law. That should be rescinded.

What our letter says today is simple: If the President drops these efforts to undermine the law, we Democrats stand ready to sit down with him and with our Republican friends across the aisle in good faith to discuss a bipartisan approach to improving our healthcare system.

It is time to work together to make healthcare even more affordable but not to encourage or root for the failure of the law that would have devastating consequences for millions of Americans.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

The Senator from Utah.

NOMINATION OF NEIL GORSUCH

Mr. HATCH. Mr. President, I have been very interested in the minority leader's comments here this morning. I have high regard for him. We have worked together on a wide variety of issues, but I have to say that he is leading a party right now that is doing

completely the opposite of what Democrats have done in the past when Republicans have had the Presidency and have had the privilege of appointing people to the Court. Frankly, it has become kind of a war that we really don't need and something that literally, I think, is demeaning to the Senate and to this country.

I venture to say that it would be very difficult for anybody to find a better nominee for the Supreme Court than Neil Gorsuch. I can't say that the Heritage Foundation was the one that carried the weight with regard to the choice of Neil Gorsuch. Now, the Federalist Society did weigh in rather heavily, and there were around 21 absolutely top judges and lawyers who were on that list. I venture to say that anybody would have a very difficult time finding anything to criticize about that list other than on a partisan basis. Unfortunately for the Democrats, they lost the election.

Now keep in mind, all the current majority leader was saying was that we just weren't going to go with a Supreme Court Justice during an intensely hard-fought Presidential election year. In this century, that has been the rule.

The majority leader, Senator MCCONNELL, knew that it was very likely, in the eyes of almost every pollster, that Hillary Clinton would win, and although he and I believed that nominee was a good, reasonable, moderate Democrat, we were quite sure that if Hillary got elected, she would not pick him. We were even working on trying to find a way so that she would have to pick him rather than pick another totally leftwing person for the Court.

Unfortunately for the Democrats, Donald Trump proved to be a formidable candidate for President and won the election and, interestingly enough, as is his right as President, nominated Neil Gorsuch for the U.S. Supreme Court.

Whether you are a Democrat or a Republican, I would venture to say that it would be very difficult to find any candidate for the Supreme Court in this century who is any better than Neil Gorsuch. Gorsuch is going to apply the law as written, not as he conjures up his ideas of what it should be. He is not going to do that. He is going to apply the law as written. He did that as a circuit court of appeals judge on the Tenth Circuit, my circuit. You would be hard-pressed to find a better qualified person. In fact, I do not think you could find a better qualified person for the Supreme Court than Neil Gorsuch.

So what is all the whining about? They lost the election. They knew that this was going to be a big deal if they won and that the Republicans would pretty well have to go along with whomever they chose, but President Trump won the election, and he has a right to pick who should go on the Supreme Court. In this case, I think he picked the most qualified person in the country for the Court. Yes, he is con-

servative. Yes, he came up the hard way. Yes, he is not likely to be a liberal on the Court, but I would have to say that anybody this President would choose would not likely be a liberal on the Court. In this case, the President chose one of the leading people in this country, one of the greatest lawyers in this country, one of the finest judges in this country, who has a record of working with Democrats on the bench, to become his choice for the U.S. Supreme Court.

I know what is wrong with the Democrats on this. They lost, and it is a hard thing for them, and I do not blame them. It is a hard thing because they were so sure they would control this nominee to the Supreme Court and probably two to five more had Hillary Clinton been elected for two terms. But that is not the way the American people chose to vote.

I commend the American people for realizing that these things are very important. I have to say, in that last election, probably the single most important issue that drove it toward Donald Trump was, who is going to pick the Justices to the U.S. Supreme Court?

Republicans know and President Trump knows that he is not going to be able to put ideologues on the Court, and Neil Gorsuch is anything but an ideologue. He is as fine a judge as we have in this country, albeit conservative in nature. He has as fine an academic background as anybody on the Court—ever. On top of all of that, he is a terrific human being, a good husband, father, and a terrific judge on the Tenth Circuit Court of Appeals.

To be honest with you, I thought it was really nice to have somebody picked from the West who might bring a western perspective of freedom into the judicial system, and I have no doubt that Neil Gorsuch will do that. To make this a big political issue, it seems to me, is beyond the pale, and it does bother me a great deal.

On another matter, Mr. President, by any measure, our efforts in this Congress to repeal harmful regulations through the Congressional Review Act have been historic. Prior to this year, only one CRA resolution—Congressional Review Act resolution—had ever been passed by Congress and signed by the President. We are an overregulated country like never before. This year, we have already successfully rolled back 11 regulations that were proposed and finalized under the previous administration. That is truly remarkable. I think our success in this endeavor can be attributed to a few factors.

First, in its last year, the Obama administration was particularly aggressive in its regulatory efforts. A number of regulations were finalized after the election, right up until the day President Trump was inaugurated. In fact, the regulation at issue today was finalized on January 19, the day before the inauguration. In other words, the Obama administration left Congress

and the new administration with a target-rich environment for CRA resolutions. There is no doubt what they were doing: They were scrambling to get as many changes as they could instead of allowing the new administration to take over.

Another important factor has been the realization by the American people that our economy—our workers, our businesses—is grossly overregulated. The regulatory state extracts hundreds of billions of dollars from our economy, much of it needlessly so. These CRA resolutions are part of a much broader effort to undo some of that damage.

Today I am pleased to be able to express my support for H.J. Res. 67, which will likely be the 12th CRA resolution we will pass this year. This resolution, once passed and signed, will roll back a last-second Department of Labor regulation that eliminated longstanding Federal protections for the retirement savings of private sector workers.

Specifically, the regulation builds off of a prior regulation that gave States a “safe harbor” from the protections workers have under ERISA if the government mandates that employers who do not offer retirement plans either set one up or join the government plan. These government-run plans do not have to be portable, nor do they have to permit workers to withdraw their savings at any time.

The resolution we are debating now would roll back the regulation that provided this authority to municipalities, such as New York City. Hopefully, sometime soon, the Senate will also debate and pass the CRA resolution relating to the original regulation, the one that focused on States, like California and Illinois.

Combined, these regulations encourage State and municipal governments to impose conflicting and burdensome mandates on private sector businesses and to bar private workers’ access to their retirement accounts, and they would let States invest private workers’ retirement assets, ignoring provisions in Federal pension law that require prudent pension investment practices and that ban kickbacks and self-dealing. Think about that.

To be blunt, places like New York City should not just get a pass on investing potentially billions of dollars in private worker retirement assets without regard to Federal rules that require prudent investment practices—rules designed to protect the retirement nest eggs of hard-working Americans.

Now, do not get me wrong—I am all for increasing coverage for employees in workplace retirement programs. In fact, it is something I have been working on for some time with my colleagues on both sides of the aisle.

Last Congress, the Senate Finance Committee, which I chair, unanimously approved the Retirement Enhancement and Savings Act of 2016, which is a bipartisan bill that will in-

crease voluntary retirement savings. It includes a number of provisions from a bill I introduced a few years before that, one that received high marks from analysts and stakeholders in the retirement-security community. My bill and others like it provide workable, voluntary solutions to give more workers access to retirement plans. This approach is far better than the one taken by the Obama administration and former Labor Secretary Tom Perez, which would purposefully take us down the path toward government-mandated and government-run retirement plans.

The retirement savings system that has been in place for decades now is one of the clearest examples we have to demonstrate the superiority of the free market over government mandates. Private retirement savings vehicles, including 401(k)s and individual retirement accounts, which have been encouraged but not mandated by Federal tax laws, have produced nearly \$14 trillion—that is trillion dollars—in wealth and savings for the middle class.

I know some have concerns about the federalism implications in rolling back these Department of Labor regulations. However, let’s be clear: Prior to the implementation of these regulations, States were free to pass laws to encourage retirement savings opportunities for private sector workers, and they will be free to do so after this CRA resolution is signed by President Trump. They will simply have to observe the longstanding rules and protections that have been in place under Federal pension laws, including the ban on self-dealing and the duty to invest prudently, and they will not be able to offer plans on an uneven playing field that favors government retirement plans over those produced in a free, private sector market.

Unfortunately, I have to wonder why States and municipalities want to do away with these protections in the first place. I also have to wonder why they think they will be able to produce better results than the private retirement savings system, which thus far has been an unqualified success, benefiting workers and employers alike. I also have to wonder how some of my colleagues who value consumer financial protection, as I do, would want to see the continuation of rules that erode protections for workers and future retirees.

The first step in undoing these harmful regulations is with the passage of H.J. Res. 67. Toward that end, I urge all of my colleagues to vote in favor of this resolution.

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. CORNYN. 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. CORNYN. Mr. President, let me just say while the Senator is on the floor that I express my admiration once again for the distinguished Senator from Utah, who is my good friend and in many ways is a mentor as the chairman of the Senate Finance Committee. I am privileged to be a member of that committee and to work with him and, of course, on the Judiciary Committee as well. I thank the Senator in particular for his leadership on this resolution of disapproval, and I support his position 100 percent.

NOMINATION OF NEIL GORSUCH

As we all know now, Mr. President, this Chamber will consider the nomination of Neil Gorsuch to serve as the next Justice on the U.S. Supreme Court.

Yesterday I spoke a little bit about his qualifications, his background, and his temperament. During the 20 hours of hearings we held before the Judiciary Committee, I think people saw the real Neil Gorsuch—somebody who, again, by virtue of his qualifications, his education, his training, and his experience is supremely qualified to serve on the Supreme Court. He did pass every single test with flying colors, even as my colleagues and some activist groups have done their best to find ways to object to what may be one of the most qualified candidates for the Court in our Nation’s history.

One argument we have heard from the opponents of the nominee in 3 days of grueling hearings was that he failed to convey his approach to judging—how he would approach the job. I would like to point out that that is simply not the case. Judge Gorsuch made clear that the text of the statute, the text of the Constitution, and the text of a precedent would guide his judging and would be the place where he starts in deciding any case. As he has repeatedly written and stated publicly, the job of a good judge is to understand what the law means and to interpret what lawmakers have done.

I know some of our colleagues and some of the activist groups who are critical of Judge Gorsuch are upset that he doesn’t believe in a living Constitution—in other words, that the Constitution, as written and ratified by the States, does not mean what it says, and that judges have a license to interpret the words in a way to pursue some other purpose, some other agenda, political or personal or the like.

Judge Gorsuch rejects that approach, and rightly so. Indeed, how can a judge claim to bear allegiance to the Constitution if he doesn’t actually start in interpreting the Constitution by reading the text of the words? What would a judge decide on if not the text and the original meaning?

To that effect, I received a letter from a friend of mine and an expert in this area, Bryan Garner, last week. Bryan is a well-known lawyer and writer and, among many impressive accomplishments, he is a distinguished research professor of law at Southern

Methodist University in Dallas, TX. Bryan has written extensively on judging, appellate advocacy, and the law generally. He was in attendance at the hearings last week. As I said, he has written a number of books, including with Judge Gorsuch, on judicial precedent, and with Justice Scalia, on reading laws.

In a recent letter, Bryan echoed the same point made by both of these men at different times—that adherence to the text is essential to our system of government. He said: “The very fact of having a written constitution meant that we had fixed its meaning in permanent form.”

Now, that seems so obvious, but, apparently, it is not obvious to some of the critics. He said: “The very fact of having a written constitution meant that we had fixed its meaning in permanent form.” In other words, our Constitution is not meant to float on the whims of judges over time, bound only by precedent. It is actually written down, so that even judges have to start with the very text.

If we think about it, there is the independence that we have given to the judiciary—lifetime tenure. They don’t have to stand for election, and they are not accountable to the voters or the people. The reason why the Founders created such an important role for the judiciary is because they believed there ought to be an umpire who calls balls and strikes when Congress passes laws or when lawsuits are filed and who could determine the fidelity of those laws to the text of the Constitution, which had a fixed meaning.

Well, sometimes this is called originalism, but it is not a political doctrine or an excuse to get certain outcomes. Mr. Garner makes the point that although his personal politics are different, dramatically, from those of Justice Scalia, those personal politics are irrelevant because the job of a judge is to apply a fair reading of the law. If you can’t do that, then, maybe you ought to run for the Senate or Congress and get involved in politics rather than judging, because a failure to apply the law as fairly read is essential in any good judge.

Judges aren’t given lifetime tenure—the sort of independence that nobody else in our government is given—just to enact their own visions of policy. Judge Gorsuch confirmed time and again that he will not do that—that he will only interpret the law as he has throughout his career as an independent judge, with faithfulness and fidelity to the text and the original understanding of the Constitution.

The letter I have been quoting in part is here in my hand, and I ask unanimous consent that it be printed in the RECORD following my remarks.

Now, I know there are some on the other side of the aisle who have indicated that adherence to originalism is a liability or who claim that it is somehow a radical doctrine out of the mainstream, but that is just a scare tactic.

It is completely wrong. Let me remind my colleagues that during her confirmation hearings, now-Justice Elena Kagan told the same committee that “we are all Originalists”—hardly a radical position, if Justice Kagan and Judge Gorsuch agree with originalism. It is certainly not a methodology of interpreting law that should stir any concern.

Yesterday, some of our Democratic colleagues continued to reinforce my view that they don’t really have any legitimate objection and reason to filibuster Judge Neil Gorsuch. This is about Judge Gorsuch. This is not about President Trump. This is not about Merrick Garland. This is not about anything else.

We will have a chance to vote on the nomination of Judge Neil Gorsuch for the U.S. Supreme Court. That is the question that will be presented to the Senate for an up-or-down vote. Any fairminded person would have to conclude that he is an independent legal mind and that he will not legislate from the bench. He has the intelligence, experience, and character to be a good judge, as he has been for 10 years on the Tenth Circuit Court of Appeals out of Denver. He has an unflinching commitment to upholding a faithful interpretation of the Constitution and our laws. I look forward to confirming him next week.

The question for our Democratic friends is whether they are going to launch the very first partisan filibuster of a Supreme Court nominee in the history of the United States. It really is unprecedented, what the Democratic leader, Senator SCHUMER, has suggested—that for the first time in the history of the Senate, a partisan filibuster will be used to attempt to defeat the nomination of a Supreme Court Justice and to deny the Senate the opportunity to have an up-or-down vote.

Now, just to be clear, there are two votes we are talking about. One is the so-called cloture vote, where we close off debate. That takes 60 votes. Then, once that passes, it is clearly a majority vote, and 51 votes will carry the day.

But the Democratic leader has suggested that he would deny the Senate the opportunity to get to that second up-or-down vote, and that is simply unprecedented. It is unprecedented for a very good reason. To believe that 60 votes would be required to confirm a nominee to the U.S. Supreme Court would be to suggest that the Founding Fathers, when the Constitution was written and when it was ratified, somehow believed that the Senate rules were incorporated in the Constitution, when that is clearly not the case—clearly not the case. The Constitution is a separate document. The Senate rules are a different thing. But, again, never have they been conflated to suggest that somehow, in order to confirm a nominee to the Supreme Court, we need 60 votes.

I understand the pressure that our friend the Democratic leader is under,

because after this last election, he has now had to straddle two competing camps within the Democratic Party—traditional Democrats versus the Democrats lead by the wing of BERNIE SANDERS and ELIZABETH WARREN. I understand the pressures that he must feel and the reason why he would do something that is unprecedented and suggest that we filibuster this nomination.

We already know that some Members of his conference have said they will agree to an up-or-down vote. Our friend from West Virginia, Senator MANCHIN, has said he opposes the filibuster. Senator LEAHY, the former chairman of the Senate Judiciary Committee, has said he is not inclined to go along with it, either. Senator CARDIN, our colleague and friend from Maryland, has stopped short of agreeing with the minority leader’s strategy. Senator HEITKAMP from North Dakota has said that she believes the nominee deserves an up-or-down vote.

If the Democratic leader follows through, as I said, it would be unprecedented. Never before has there been a successful partisan filibuster of a Supreme Court nominee. I would just say to our friends across the aisle that time and again Democrats have accelerated the arms race on judges, and every single time, it has come back to bite them.

We remember in 2013, when Senator Harry Reid, then the majority leader, broke the Senate rules in order to change the rules, in order to lower the threshold for circuit court and district court nominations. He did that because of the desire to pack the District of Columbia Court of Appeals, because that was the court that had primary jurisdiction over cases coming out of the Obama White House—its regulations and the like. In order to get a court that would be more likely to rubberstamp and approve of Obama policies, Senator Reid felt it was imperative to pack the DC Circuit Court of Appeals. Unfortunately, he was able to do so with the votes of the Democrats across the aisle—to break the Senate rules to change the rules for the sole purpose of rubberstamping Obama administration policies.

The question before the Senate this time is very different. Those who would break precedent are those who would filibuster a Supreme Court nominee like Judge Gorsuch because it has never been done before. But I would ask our Democratic colleagues this: If Judge Gorsuch is not acceptable to them, is there ever going to be a nominee from a Trump administration whom they would find acceptable?

They have tried to find fault with Judge Gorsuch, and they have simply been unable to do so. So they keep moving the goalpost and raising different issues because they, frankly, are desperate to find some reason to justify this unprecedented filibuster.

But if they do—if Democrats block Judge Gorsuch from receiving an up-or-

down vote—then, there is simply no Republican nominee to the U.S. Supreme Court they won't filibuster. If Judge Gorsuch isn't good enough, I dare say there will never be another nominee who is good enough to allow an up-or-down vote if this unprecedented filibuster is allowed to stand.

So I hope our colleagues will reconsider, and that, on cooler reflection, the will not be driven by the radical elements in their own party but rather by their good judgment and their sense of responsibility to not only their constituents but to the Constitution itself and to the important role that the Senate plays in the advice and consent function to the nominee of the U.S. Supreme Court. I hope they reconsider, and I hope that when the rollcall vote is held, our colleagues will provide the 60 votes we need to get cloture, so we can have that up-or-down vote on Judge Gorsuch's nomination.

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

LAW PROSE,
Dallas, TX, March 25, 2017.

Senator JOHN CORNYN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CORNYN: It was an eerie feeling for me this week, sitting behind my friend and coauthor Judge Neil M. Gorsuch as he was being vetted to replace my late friend and coauthor, Justice Antonin Scalia. As you know, I've written lengthy books with both men, and I know their legal philosophies pretty darned well.

One aspect of their approach to judging—"originalism," as it's called—has attracted polemicists to use the label as a scare tactic. So much demagoguery surrounds the word that some clarification is in order.

People might wonder why Justice Scalia would write a prescriptive book on judging (Reading Law) with someone who had declared himself to favor same-sex marriage, to be ardently pro-choice, to disfavor prayer in public schools, and to be hostile to the Second Amendment—so hostile, in fact, that he would like to see it repealed altogether. Yes, I'd favor serious gun-control measures in this country.

My private beliefs on these points, however, would be irrelevant if I were up for a judgeship because methodologically I'm an originalist: I wouldn't be enacting my own visions of wise policy—that's not what a good judge does—but instead I'd be applying a "fair reading" to the the statutory or constitutional words before me. Although I deplore the Second Amendment's right to bear arms, I think the Supreme Court's Heller decision was correct: the constitutional Framers meant there to be a personal (though not unlimited) right to own guns. I wish it weren't so.

Only if I were a "pragmatist" judge or a "changing constitutionalist" would these private views become important. Then I wouldn't be "interpreting" a document. Instead, I'd be declaring new policies that have no discernible foundation in the Constitution itself. I'd be looking within my heart and soul to consider what I believed to be fundamentally important. There I might discover new rights that people hadn't seen before. I might take on the mantle of philosopher-king: whenever reformers couldn't get a constitutional amendment through, they could come to my court. Perhaps four of my colleagues and I could amend the Constitu-

tion for them: we'd declare a new meaning and find a new fight as part of our never-ending Constitutional Convention.

That's what would happen if I were a "pragmatist" (it's a euphemism) or a "changing constitutionalist" (the euphemism is "living constitutionalist").

So you can see why methods of judging have caused the confirmation process to become so heavily politicized. In Reading Law, Justice Scalia and I remarked: "The descent into social rancor over judicial decisions is largely traceable to nontextual means of interpretation, which erode society's confidence in a rule of law that evidently has no agreed-on meaning. Nontextual interpretation, which makes 'statesmen' of judges, promotes the shifting of political blame from political organs of government (the executive and the legislature) to the judiciary."

We went on to observe that "the consequence is the politicizing of judges (and hence of the process of selecting them) and a decline of faith in democratic institutions."

In a New York Times op-ed two days ago, a law professor from Louisiana had the temerity to say that "Justice Scalia failed to realize that textualism is self-undermining." His support for that slander? "Nowhere does the Constitution explicitly state that textualism, no less than originalism or any other method, is the correct theory of constitutional interpretation."

This is just silly. Nowhere in Shakespeare is it said that future generations may well need a glossary to understand some of the words—or that the best understanding of the words will be their Elizabethan understanding. For example, few people who read the word leasing in Shakespeare would understand it, as his contemporaries did, to mean "a lie or falsehood."

Although there was no name for originalism in the 18th century, the idea was well-enough understood. The political philosopher Emmerich de Vattel—whose influence on Benjamin Franklin, George Washington, and other Founders was well known and "timely," according to Franklin, since it reached them about 1775—wrote in his Law of Nations: "The interpretation of every act, and of every treaty, ought . . . to be made according to certain rules proper to determine the sense of them, such as the parties concerned must naturally have understood, when the act was prepared and accepted."

Vattel added: "When an ancient act is to be interpreted, we should then know the common use of the terms, at the time when it was written."

That was the settled view of written legal instruments, whether statutes or written constitutions. In 1796, Justice James Iredell of the Supreme Court wrote: "We are too apt, in estimating a law passed at a remote period, to combine in our consideration, all the subsequent events which have had an influence upon it, instead of confining ourselves (which we ought to do) to the existing circumstances at the time of its passing."

Perhaps, you might think, all these statements relate only to statutes and not to constitutions. Just seven years later, in the seminal case of Marbury v. Madison, Chief Justice John Marshall applied the same principle to the U.S. Constitution. He emphasized the notion that the Constitution, aside from what ought to be infrequent amendment, is fundamental and unchanging: "That the people have an original right to establish, for their future government, such principles as, in their opinion, shall most conduce to their own happiness, is the basis, on which the whole American fabric has been erected." It's an original right to fix the future government. He added that this original right is "a very great exertion" that should not "be frequently repeated." Then, in this

closely reasoned passage, he says that "the principles . . . so established are deemed fundamental" and "are designed to be permanent."

Permanent—not waxing and waning according to political expediences of the moment.

That's the essence of originalism. Marshall and Iredell and Vattel were hardly alone. Other writers of the period agreed. In 1821, James Madison, one of the architects of the Constitution and author of the Bill of Rights, correctly stated the gist of originalism: "Can it be of less consequence that the meaning of a constitution should be fixed and known, than that the meaning of a law should be so? Can, indeed, a law be fixed in its meaning and operation, unless the constitution be so?"

Elsewhere, Madison wrote: "What a metamorphosis would be produced in the Code of the law if all its ancient phraseology were to be taken in its modern sense." He further insisted that if "the sense in which the Constitution was accepted and ratified by the nation . . . be not the guide in expounding it, there can be no security for a faithful exercise of its powers."

The very fact of having a written constitution meant that we had fixed its meaning in permanent form. That wasn't just the prevalent notion among the founders—it was the only notion of which any contemporaneous or nearly contemporaneous trace can be found.

Some imprecise observers confuse the concept of originalism with the word originalism—and so conclude that the concept, like the word, was born "in 1985 [when] Ronald Reagan's attorney general at the time, Edwin Meese, elevated originalism to a legal and political movement." It may well be that the term originalism didn't come into common usage until the 1980s, but that is simply because before then there was no need for the term. Originalism is what philologists call a "retronym"—a term devised to describe what used to be an entire genus but has since become merely one species of the genus. For example, the term land line didn't exist in the telecommunications field until wireless technology was invented. Until then, all voice telecommunication was through land lines, so the term was unnecessary.

Likewise, giving text its original meaning was long the standard legal practice. It wasn't until the 1960s that other "theories" of interpretation came into common usage. Only then did it become necessary to coin a word to denote the traditional practice.

Only by sheer, bald-faced casuistry can it be argued, as it was earlier this week in the New York Times, that "true originalism—genuinely following the founders' intent—requires us moderns to interpret constitutional language in light of our own, not their, moral and linguistic norms." This assertion comes, of course, from the same writer who asserts that "Justice Scalia also failed to realize—or at least admit—that textualism and originalism rarely determine a unique outcome."

These calumnies don't square with the facts. In the preface to Reading Law, Justice Scalia and I plainly wrote: "Textualism will not relieve judges of all doubts and misgivings about their interpretations. Judging is inherently difficult, and language notoriously slippery. But textualism will provide greater certainty in the law, and hence greater predictability and greater respect for the rule of law."

Judge Gorsuch said as much during his Judiciary Committee hearings this week. He demonstrated an astonishing command of the law, a erudition worn lightly, a calm but tenacious dedication to the scruple of judicial ethics, a thoroughly likable demeanor,

and admirable endurance. I trust that all fair-minded Senators will vote for him.

Sincerely,

BRYAN A. GARNER,
Editor in Chief,
Black's Law Dictionary; President of
LawProse Inc.; Distinguished Research
Professor of Law,
Southern Methodist
University.

Mr. CORNYN. Mr. President, I see our friend from West Virginia and others here, so I yield the floor.

THE PRESIDING OFFICER. The Senator from West Virginia.

OPIOID CRISIS

Mr. MANCHIN. Mr. President, we have come to a crisis in our country. My State of West Virginia has the highest drug overdose death rate in the Nation. West Virginia reported 818 overdose deaths last year—four times the number that occurred in 2001 and a nearly 13-percent increase over 2015. We lost more than 700 West Virginians who died from an opioid overdose last year. Some 42,000 people in West Virginia, including 4,000 youth, sought treatment for illegal drug use but failed to receive it because of a lack of treatment centers, which we have been trying to correct. In West Virginia, drug overdose deaths have soared by more than 700 percent since 1999.

West Virginia had the highest rate of prescription drug overdose deaths of any State last year—31 per 100,000 people. In West Virginia, providers wrote 138 painkiller prescriptions for every 100 people. Think about this. Doctors are prescribing and manufacturers are producing. They have written 138 painkiller prescriptions for every 100 people in my State—the highest rate in the country. I hope Arkansas is not facing the same dilemma we are.

Every day in our country, 91 Americans die from an opioid overdose. Opioids now kill more people than car accidents. In 2015, the number of heroin deaths nationwide surpassed the number of deaths from gun homicides. Since 1999, we have lost almost 200,000 Americans to prescription drug opioid abuse.

Mr. President, 2.1 million Americans abuse or are dependent on opioids. According to the CDC, three out of four new heroin users abused prescription opioids before moving to heroin. Heroin use has more than doubled among young adults ages 18 to 25 in the past decade. Forty-five percent of the people who used heroin were also addicted to prescription opioid painkillers. Between 2009 and 2013, only 22 percent of Americans suffering from opioid addiction participated in any form of addiction treatment.

Misuse and abuse of opioids cost the country an estimated \$78.5 billion in 2013 in lost productivity, medical costs, and criminal justice costs.

Every week, I come to the Senate floor to read letters from West Virginians and those struggling all throughout our country with opioid

abuse. The reason I do this is because it is a silent killer. We don't talk about it. There is not one of us in the Senate, not one of us in Congress, not one of us in any gathering who doesn't know someone in our immediate family, extended family, or a close friend who hasn't been affected, but we would never talk about it because it was so embarrassing—how did it ever break down in our family, whether you had a model family or you thought you did. This is a killer. Whether Democrat or Republican, conservative or liberal, this is a killer. It has no discretion. It has no partisan base. It goes after one and the other. So this is what we are dealing with.

The letters I read have a common theme: They all mention how hard it is to get themselves or loved ones into treatment. Sometimes it takes months, and sometimes it never happens. This problem stems from our lack of a system to help those who are looking for help. We need permanent funding to create and expand substance abuse treatment facilities to help people get clean and stay clean.

I know the Presiding Officer has heard this before, but that is why I introduced the LifeBOAT Act. The LifeBOAT Act puts one penny per milligram of opiates—basically, one penny for every milligram of opiates produced in America, consumed in America—into a fund that pays for treatment centers. In the Presiding Officer's beautiful State of Alaska and my State of West Virginia, people need treatment. This is an illness. I used to look at it 20 years ago as basically a criminal act, and we put them in jail. Guess what. They came out of jail just as addicted as they went in. Nothing changed, so I am willing to change. I have always said that if you can't change your mind, you can't change anything. This is an illness that needs treatment, and we are responsible for that. This lifeboat would establish a steady, sustainable funding stream to provide and expand access to substance abuse treatment.

Today I am going to read a letter from parents from West Virginia who lost their son to drug abuse. This is Renee and Criss's letter, which they want me to read. This fine-looking young man was a father, and this is such a tragic ending to this story.

Dear Senator Manchin,

I am writing to you in the hope of bringing to light the devastating effects of heroin addiction, overdose death and the difficulty in finding treatment for those afflicted with the disease and their families.

On November 12th, 2016, we lost our 23-year-old son, Nick, who died from what we thought at the time was a heroin overdose. When Nick's autopsy report came back, we discovered that his body contained no trace of heroin in his system. He had died from a fatal dose of straight fentanyl.

Nick was a quiet, kind and inquisitive child. He learned to speak and read at an early age and spent most of his time absorbed in books and riding his bike and scooter. He also loved playing in the woods and dreaming up adventures with his sisters

and neighborhood friends. He was a protective big brother, and he had a natural way of connecting with kids who were "different" and making them feel accepted.

Nick was always tall for his age. He came into this world on July 5th, 1993, weighing in at 10 pounds and topped off at 6'8". He loved sports and excelled in basketball and soccer. He even met you when you were Governor Manchin, after his basketball team traveled to Charleston, WV, to celebrate their A State Basketball Tournament Championship in 2011.

After high school he went on to play basketball for the Glenville State College Pioneers. Nick wasn't able to keep his grades up and had to drop out of Glenville after the first semester of school. Shortly after that, he met a girl. They instantly connected, and he soon became a father to her daughter. After several years together, they had a son of their own.

After having difficulty holding down jobs and providing for his family, Nick came to me in November of 2015 and told me that he was addicted to opiate prescription drugs. We had suspected drug use for quite some time but didn't realize the extent of it. He said that he could no longer live the life he was leading and needed help. Nick and his girlfriend had started using opiate-based prescription drugs after she was prescribed them for her recovery from the birth of her daughter in 2013. At first, they would make trips to the doctor or quick care with fake ailments in order to get their prescriptions. If they couldn't get prescriptions, then they bought from drug dealers. The pills were easy to get up until the time he came to me for help.

I told my husband about Nick's drug problem, and not knowing what to do, we turned to the Internet as a source of information. We found a lot of information and many treatment centers across the country. I began calling a few of the ones that looked reputable, but in each case, they required three to five thousand dollars up front for a 28 to 30 day treatment. The question now was: Were these treatment centers as good as they appeared to be on their websites or were they simply out to make a profit and marketing their centers to bring in more patients?

While we researched and tried to make a decision, Nick, not wanting to be away from his family, went through detox at home and had convinced him and us that he could do this on his own. Nick made it through his first round of self-detox but started using again for a short while at the end of January. We confronted him, and he immediately started his second round of self-detox. He again swore that he could do this himself and was finished with the life he was leading. We were still trying to figure out what to do with him and what would happen to his family while he was gone. We didn't know that his girlfriend was also using and detoxing along with Nick.

After speaking to several people at a local treatment center and trying to arrange for him to be admitted, we were told that they wouldn't take him because [of] our insurance. My next course of action was to call local counseling centers that offered addiction counseling, hoping that they would be able to offer advice. Each one I called politely told me that they couldn't help.

Nick's addiction, and our focus on him, was taking away from our being able to celebrate and focus on our other children, Nick's two sisters. We decided to put Nick on the backburner while we prepared for our daughter's graduation party and the school events that preceded it, thinking that a few weeks wouldn't hurt. Were we ever wrong!

It is a sad scenario when a family has to hope that their child gets arrested

and gets a conviction record so they can go to a drug court to get treatment, that that is the only help they have.

One of our daughters had learned that Nick could get treatment if we pressed charges against him for theft. He would be charged, then court-ordered to be sent to an addiction treatment center. She felt that this was the best course of action to get Nick the help he needed, but Criss and I were hesitant because of the negative impact a felony charge would have on Nick's life if the charges weren't expunged after completing his treatment.

Which is our what we call fresh start or last-chance bill, which the Presiding Officer has been so graciously looking at and hopefully will be a part of this. It is a shame they fall into this.

Our decision to not go this route caused even more anger.

Since they knew that, hindsight being 20/20, this was the only way to get Nick help.

Little did we know that, by late-March or early April, Nick and his girlfriend had decided to celebrate their being clean by using heroin "just this once" as a reward for staying clean.

They were rewarding themselves by using heroin to celebrate being clean. Now, understand, that is not proper thinking. That is not rational common sense.

In the past, the two had snorted heroin but had never injected it. When they went to buy from their dealer, he told them that since they didn't have much money and there were two of them, they could get a better high with less heroin if they injected it. And that was the beginning of a rapid decline.

On June 2, 2016, Nick had his first overdose. Without our knowledge, his girlfriend had taken Nick, along with the children, to the emergency room, where he was treated and released within a few hours. Unbeknownst to us, this initiated a call to CPS that would result in her daughter's father taking custody of her and CPS involvement for Nick and his girlfriend and their son.

At the hospital, Nick and his girlfriend talked with a doctor out of Pittsburgh about Suboxone. They agreed to try the program. I traveled with Nick, his girlfriend and her mother for the first visit to Pittsburgh. They had a high success rate, and it was decided that once the treatment was established, the two would go to Pittsburgh once a month for drug testing, counseling and their Suboxone prescriptions. The clinic would line up additional support services in Parkersburg or close by. We were very impressed with the clinic, their staff and their program, which only took on 100 patients at a time.

Criss came to the next meeting two weeks later to speak with the counselors and was now more comfortable with the treatment plan. Unfortunately, when the counselors tried to set up local support services, they were shocked to find the small number of places that treated addiction and the fact that the ones that were here would not provide services for patients who were not in their program. The decision was made to increase their sessions to twice a month and eventually once a week when it became apparent through consistent "dirty" screens that the two were struggling with the program [and still using].

In August, his girlfriend suffered an overdose. The Pittsburgh Clinic called shortly after that and said that they were releasing the two from the program, letting us know that they needed a more intense treatment

plan than they could provide. I called the CPS case worker and addiction counselor that were assigned to watch over the children and monitor the two after Nick's overdose in June. We all met at the house to determine the next course of action. After numerous phone calls, we were able to find an "open" bed in Las Vegas, Nevada, for Nick, while his girlfriend would decide the following week to go to a treatment center in Fairmont, WV.

In less than a week, Nick was on a plane to Vegas, eager to begin a new, clean life. He was upbeat and positive before he left, excited by the prospect of finally leaving behind the life of addiction that he'd been living for so long. During his phone calls home, he had positive things to say about his treatment. He was staying in nice homes that were part of the treatment center. Along with their daily treatment schedule, they were taken on hikes and went go-cart racing. He even had a manicure at the facility's salon. The purpose of these activities was to teach the patients natural ways of experiencing highs.

Nick's release date was scheduled for October 3rd. There were longer-term treatment plans offered at the facility, but Nick missed his son and worried about his girlfriend and wanted to come home. The treatment center had set up group sessions for him three times a week for a period of about six weeks.

Nick came home on a beautiful, sunny day. I waited at home for him with his son, who had been staying with me, and his other grandmother.

I wish we had this picture of his son, a beautiful little boy.

When I saw Nick for the first time, he looked beautiful. He looked and acted like the Nick that we had known before addiction. He told us about his stay in Vegas and was literally shining with hope! He told me, "Mom, I will never go back to that life!" And I believed it was possible.

That hope began to fade pretty quickly. Nick had started working about six weeks before he left for rehab. It had taken him a long time to get that job and he enjoyed it and felt that he could actually provide for his family if he could work his way up. However, after rehab he was unable to secure a job. Nick was going to his scheduled group sessions and going to nightly NA meetings for support. Nick finished up his six weeks of group therapy. He was so proud when he received his "sixty day's clean" chip at the NA meeting. Seven days later he and I spent part of the afternoon together. He wanted to look for a job and I had some errands to run. He dropped me off where I needed to be and applied for jobs. When I finished, he picked me up and I took him to Sam's Club to show him cute toys for his son for Christmas. We picked out a racetrack together and I showed him a few other things I had bought for my grandson. I had mentioned that Criss might get his son a basketball hoop for Christmas and he told me, "No Mom, I want to buy that for him with my own money."

We had a good afternoon together. He had made plans for the evening, to meet up with some of his high school friends who were in for the weekend. He left my house around eight o'clock and I heard him return around 12:35 am. All of his friends later said that he'd had a good night. He was happy and smiling and there was nothing to indicate that there was anything wrong. Shortly after I heard Nick come in, my grandson's crying woke me up and I woke to change him, give him a bottle. I headed back to bed and noticed the light on in the bathroom and knocked and opened the door. It was around 1:45 am and Nick was lying on the bathroom floor with no pulse and not breathing. I

called 911 and began CPR. Within minutes the ambulance arrived. They worked on him for some time while I spoke to the police officer then they took him out to the ambulance. I assumed they had stabilized him enough to transport him and waited for my in-laws to arrive to watch our grandson.

When Criss and I were called back into the emergency room we did not expect to hear that Nick had passed. We didn't expect that we would have to call our daughters to tell them that their brother was dead or that we would sit in a room with him feeling him go cold while we waited for our daughter to arrive from Morgantown. We weren't able to get in touch with our other daughter and had to send my sister over the following morning to tell her the news. We didn't expect that in less than two days we'd be picking out a coffin and cemetery plot for our son.

We expected that we would be sending him back to treatment in the hope that the next round would be successful. We expected another chance. And what we have now is the knowledge that we failed our son in the worst way possible.

Sincerely,

Renee and Criss Fisher.

There is a picture that would be hard to show because it was the most moving picture I have ever seen. They sent me the picture of Nick, this wonderful young man, lying in a casket and his little boy tiptoed up holding on. That should move all of us to do the right thing here, to start finding treatment centers, to start working with this illness, to find ways to understand, and to start intervening. You have to intervene from inception, from birth and all the way through, educating children. It is destroying economies. It is destroying families. It is destroying, basically, communities all over this country.

It is something that I hope we all can fight. To lose a young man—this was a terrific young man, and to lose him to drugs is uncalled for.

I yield the floor.

The PRESIDING OFFICER (Mr. SULIVAN). The Senator from Utah.

NOMINATION OF NEIL GORSUCH

Mr. LEE. Mr. President, I rise in support of the nomination of Judge Neil Gorsuch for the Supreme Court of the United States.

Last week the Judiciary Committee, on which I serve, held a week-long series of hearings concerning Judge Gorsuch's nomination. After listening to the judge's flawless testimony, after listening to him answer questions from my colleagues for days on end, I am even more convinced than ever that he is exactly the kind of jurist we need on the Supreme Court of the United States.

I want to briefly explain my support for the judge, and then respond to some of the criticisms that have been leveled against him.

First and foremost, Judge Gorsuch understands the proper and necessarily limited role of the judiciary in our constitutional Republic.

Last week, over and over, Judge Gorsuch affirmed—even against great criticism that at times can be difficult to understand in its entirety—but responded time and again to criticisms by pointing out that it is his job as a

judge to interpret and apply the law—not to make it, not to establish policy, but to apply that policy which has already been placed into law by the legislative branch.

When you are reading law, the text matters. Our laws consist of words and each word matters. If the law leads to an uncomfortable outcome for the parties, for politicians, or for anyone else in our society, then, it is our job as a Congress—or if it is State law at issue, it is the job of a State legislature—to get the policy right, to fix the policy problem at issue. The judge's job is to go where the law leads the judge, not to correct the law.

Over and over, Judge Gorsuch affirmed the importance of precedent in our system. It is clearly a topic that he takes very seriously, having coauthored a treatise on that very subject. While precedent is not always absolute, in so far as you have a clear conflict with the text, Judge Gorsuch testified that you start with the "heavy presumption in favor of precedent." He described precedent as the "anchor of the law."

Over and over, Judge Gorsuch explained that judges are not partisans in robes. No, they are different. They are different from politicians. They are meaningfully different than the politicians who make the laws or the politicians in the executive branch who enforce and execute the laws. They are unfailingly independent when they are doing their jobs right. They are devoted to the rule of law. They do their best to decide cases on the basis of the law and the facts, rather than on the basis of achieving whatever outcome they or others might desire.

Some of my colleagues' views of Judge Gorsuch's record are different, and I want to address some of their concerns. First, some of my colleagues have questioned the independence of Judge Gorsuch and his ability to exercise judicial independence. This is a very serious accusation. In fact, it is probably one of the worst things you could say about a judge. So my colleagues who have raised this criticism would need to back that up against something. If you are going to raise a really serious accusation against someone, as you are whenever you are calling into question a judge's independence, you have to be able to back it up.

Let's look at that. Can they back it up? I don't think so. In fact, I am quite certain they can't because they haven't. The argument boils down to the complaint that Judge Gorsuch hasn't sufficiently criticized President Trump's comments about judges. But here is what Judge Gorsuch said about this topic last week. He said this in response to questions raised by Senator BLUMENTHAL on the Judiciary Committee. He said:

Senator, I care deeply about the independence of the judiciary. I cannot talk about the specific cases or controversies that might come before me, and I cannot get involved in politics.

But, Senator, when you attack the integrity or honesty or independence of a judge, their motives, as we sometimes hear, Senator, I know the men and women of the Federal judiciary, a lot of them. I know how hard their job is, how much they often give up to do it, the difficult circumstances in which they do it. It is a lonely job, too. I am not asking for crocodile tears or anything like that. I am just saying I know these people, and I know how decent they are. And when anyone criticizes the honesty or integrity, the motives of a Federal judge, well, I find that disheartening, I find that demoralizing, because I know the truth.

Senator BLUMENTHAL asked Judge Gorsuch whether, when he said "anyone," that applied to the President of the United States. Judge Gorsuch responded simply: "Anyone is anyone." It is true that Judge Gorsuch didn't use the magic words: I disagree with President Trump. But he can't get involved in politics. He said here what he can say. In fact, he said all he can say in this context.

Moreover, here are some additional parts of Judge Gorsuch's testimony, which shed light on this issue.

From Tuesday:

I have no difficulty ruling against or for any party other than based on what the law and the facts in the particular case require, and I'm heartened by the support I have received from people who recognize that there's no such thing as a Republican judge or a Democratic judge. We just have judges in this country.

On Wednesday he said:

I do not see Republican judges, and I do not see Democrat judges. I see judges.

So I think any fairminded person looking at this would have to agree that Judge Gorsuch's feelings about judicial independence in cases before the Federal judiciary are very clear. To my colleagues who might see the issue differently, I would ask simply: What should Judge Gorsuch have said without getting involved in politics, without mirroring himself in a debate that is within the political branches of government and, therefore, within the political rather than the judicial interpretive arena?

Second, some of my colleagues allege that Judge Gorsuch is somehow out of the mainstream. But consider these facts. Judge Gorsuch has decided roughly 2,700 cases. His decisions have been unanimous 97 percent of the time. Keep in mind that he is an appellate judge who sits on the U.S. Court of Appeals for the Tenth Circuit. Appellate judges never sit alone in that capacity. They sit in panels—normally in panels of three and sometimes in panels of a dozen or so when they sit on the bench. And 97 percent of the time, all of the judges with whom Judge Gorsuch sits in any case agree with whatever decision he reaches. He is in the majority 99 percent of the time.

He is about as likely to dissent from a Republican-appointed judge as a Democratic-appointed judge. He has been reversed twice, and in both cases he was following circuit precedent. I want to make it clear that there is nothing wrong with a judge who dis-

sents more than this. In fact, in many instances, dissents are necessary. In many instances, a dissent can be useful, even indispensable. There are judges out there who dissent more than this, and there wouldn't be anything wrong with Judge Gorsuch if he dissented any more. My point is that of all the arguments you can make against Judge Gorsuch, this is not a fair characterization. To say that he is out of the mainstream simply runs against mathematics. It runs against the bold statistics on their very face, which contradict this characterization.

Some of my colleagues respond that only a handful of cherry-picked cases matter. If you watched the hearing last week, you might recognize the names of some of these cases. They include TransAM Trucking, Hwang, Luke P., Hobby Lobby. What I find revealing is that my colleagues never mount much of a legal argument against any of these decisions. No, you are not going to find quibbling with the statutory construction in these cases. They don't parse the statutes at issue and then explain where it is that Judge Gorsuch somehow got it wrong, somehow departed from what the law actually says. No, they are looking at outcomes. They think Judge Gorsuch should have bent the law in order to go where they think the law should go. They want judges who have the right approach in mind, the right outcome in mind, and to decide the case according to what outcome they desire.

I flatly disagree with this view of judging. It is a view, frankly, that is way out of the mainstream in American law. To say it is out of the mainstream in American law does not mean out of the Republican mainstream or the conservative mainstream or the mainstream among members of the Federalist Society. No, I am talking about rank-and-file practitioners of the law, jurists from every conceivable point along the political and ideological spectrum. This is just not something that a judge would ever want to admit to doing. Certainly, it is never anything a judge would aspire to do—to choose an outcome and say: I am going to reach that outcome, and I don't really care that the law doesn't really authorize me to do it. I am just going to do it because I think, in some abstract sense, that outcome would achieve a greater degree of fairness than what the law actually requires me to do.

Third, I am distressed by a lot of the rhetoric that we heard during the confirmation hearing last week—rhetoric that I expect to continue and even mount over the next 10 days or so. One of my colleagues last week actually went so far as to describe the Supreme Court of the United States as an "instrument of the Republican party."

Other colleagues have complained about the so-called dark money campaign to support Judge Gorsuch's nomination, and still other colleagues complain that President Trump or Steve

Bannon or Reince Priebus or others are enthusiastic about Judge Gorsuch's nomination, as if the fact that someone is supported by someone they don't like means that the person in question is not qualified. This is unfair to Judge Gorsuch.

Judge Gorsuch didn't decide *Citizens United*. He didn't decide *Hobby Lobby* or any other case my colleagues dislike. He made clear in no uncertain terms that no one speaks on his behalf but him.

They may dislike some of the cases in which he offered opinions, but, again, in those cases, they are not quibbling with the way that he interpreted the law. No one has attacked his interpretation of a statute, his approach to statutory construction. They are quibbling with the outcome. They are quibbling with the fact that they wish it had turned out differently on policy grounds, policy grounds that have everything to do with the policy-making arms of the government and not with the jurisprudential arm of the government.

Even worse, these types of statements are damaging to our judiciary. If you don't like a judicial decision, engage the decision on its own terms, engage in a discussion of how that decision turned out wrong or where it is that it departed from what the law requires. Make a legal argument, in other words.

The courts announce reasons for their decisions. There is plenty of material to dig into, but don't impugn the judge's motives or independence. This is especially harmful when you impugn the judge's motives without actually getting into what the judge did or what the law says and explaining how those two things diverge.

Don't accuse the Supreme Court of functioning as an instrument of the Republican Party. In fact, you might as well call someone a so-called judge in a case where you disagree with the outcome. In fact, calling someone a so-called judge is probably no worse than calling the Supreme Court of the United States an instrument of the Republican Party.

Finally, I want to talk about the filibuster. The minority leader has urged his colleagues to filibuster. The minority whip has announced he will filibuster. Only two Democrats have said they will vote yes on cloture, so here we are.

I ask my colleagues: If Neil Gorsuch can't get 60 votes for cloture, which Republican nominee can?

Some of my colleagues have argued that if a nominee can't get 60 votes, the President should find a new nominee. I ask my colleagues: Was that the standard for several of President Obama's nominees at the U.S. Court of Appeals for the DC Circuit?

Well, yes, it was. Under rule XXII, that was the standard. That was the standard until, in November of 2013, the Democrats in the Senate went nuclear, and they created a new prece-

dent, taking that threshold down from 60—by precedent—to 51. Through going nuclear, this is the result they achieved.

Their analysis, in its entirety, went in this direction. Their analysis nuked the Executive filibuster. It nuked the filibuster on the Executive Calendar.

Interestingly, although some were insisting at the time and went to the floor to explain at the time that they didn't intend for this to extend to Supreme Court nominees, when everyone thought Hillary Clinton would be President—Harry Reid admitted that the Democrats would extend this same precedent through which the Democrats had nuked the Executive filibuster to Supreme Court nominees.

So, look, I work with my colleagues on the other side of the aisle on a great number of important issues, issues that are very important to me, issues like criminal justice reform, reform of the Foreign Intelligence Surveillance Act, reform of the Electronic Communications Privacy Act of 1986, which is badly in need of reform, and a number of other issues, many of which involve privacy protections. These are A-plus legislative priorities for me. Nothing else is more important, and I stand ready to reform the law whenever I see the need to do so and will continue to work with my Democratic colleagues.

As we approach this discussion, I want to be clear that unilateral disarmament doesn't work. I hope the Democrats reverse course and do not filibuster this nominee, but if they do, I am confident Judge Gorsuch will be confirmed.

THE PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Mr. President, I ask unanimous consent that Senator WHITEHOUSE speak after me, followed by Senator COTTON, if he is on the floor.

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

Ms. HIRONO. Mr. President, I rise in opposition to both of the Congressional Review Act, or CRA, resolutions related to retirement that we will be considering this week. These CRA resolutions before us would kill Federal regulations that give cities and States the opportunity to expand retirement options for individuals.

Our Nation faces a retirement crisis. In Hawaii, about 50 percent of private sector workers have jobs that don't provide retirement benefits.

According to a recent survey by AARP Hawaii, 56 percent of working age people feel anxious about having enough money saved for retirement. For generations, Americans relied on the "three-legged stool" of retirement: Social Security, private savings, and a pension from their employer. Those days are gone. More and more seniors are relying on Social Security for a bigger share of their income in old age.

In Hawaii, the average monthly Social Security benefit is \$1,408. Given the cost of housing, medical insurance,

and other necessities in Hawaii, that is not nearly enough.

Seniors should be able to count on us to keep Social Security strong. That is a bedrock position we should honor.

Given the retirement crisis, taking away tools that States and local governments can use to help bolster retirement savings makes absolutely no sense, yet this is what we are about to do if we pass these CRA resolutions.

Last week, the Hawaii State Senate held a hearing on legislation that would establish a Hawaii retirement savings working group. The proposed legislation would bring together public and private stakeholders to look at ways to improve retirement savings for workers. A number of stakeholder groups, retirees, and other citizens testified on the bill.

Let me tell you one of their stories. His name is Donald. He is a 61-year-old gay man who has lost three husbands to HIV/AIDS. Donald has worked for 35 years and even set aside money for retirement using 401(k)s—401(k)s that he cashed out to help cover medical costs for his loved ones.

He said: "I did what I had to do out of love and devotion, especially when each of my guys' families took a step back in the face of adversity."

Donald now lives paycheck to paycheck in senior affordable housing. He plans to work until he is at least 65.

Personal tragedy isn't the only reason it is difficult for him to save. He wants to save, but he noted that "I am trying to muster some form of IRA through local financial institutions to no avail. No one returns the calls."

For too many working people, saving for retirement isn't automatic or easy. It seems out of reach, but we can't let that stand.

The Obama administration recognized the retirement crisis in our country and the need for new thinking to help people save. In fact, that is the point of the regulations the Senate is poised to kill. These regulations simply provide a framework that States and cities can use to expand access to retirement savings.

There are no Big Government mandates or industry takeovers. States and cities would simply have the opportunity to be creative and help families save for retirement. The fact Republicans want to kill these rules has a certain "Alice in Wonderland" quality to it, where up is down and down is up.

For the last few weeks, Republicans touted how TrumpCare was giving States more flexibility to provide healthcare, while the reality was that for a State like Hawaii and many others, TrumpCare would have saddled them not with more flexibility but more costs. At that point, States' rights was one of the selling points for that disastrous legislation.

This week Republicans have taken a U-turn. Now they are trying to kill regulations that would actually give States more flexibility to provide retirement security. Why we should take

away this tool from States is beyond me. Cynics would say Republicans are doing this to help some private entities sell more retirement plans to people. However, the reality is that millions of families are not being served.

Killing these rules is the latest Republican attack on working people. We should be fighting to give people like Donald more hope and opportunity. Voting against these resolutions is a vote to help people like Donald.

I urge my colleagues to join me in opposing what I can only characterize as lousy anti-working people resolutions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for up to 17 minutes.

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

OUR NATION'S INFRASTRUCTURE

Mr. WHITEHOUSE. Mr. President, with the Republican plan to defeat the Affordable Care Act itself defeated, President Trump says he wants to move beyond healthcare to focus on other priorities. One area that he has often highlighted is our Nation's crumbling infrastructure, which is a priority that many of us share and is something I would like to discuss today.

All of our kids, I suspect, dread having to bring home a lousy report card. They would be facing a serious talk.

Every 4 years, the American Society of Civil Engineers issues a report card for American infrastructure. Our 2017 report card—out just this month—shows lousy marks across the board for American infrastructure. Our ports and bridges got C-pluses, flat Ds for both drinking water infrastructure and roads, and our energy grid got a D-plus. Overall, the United States took home a D-plus grade point average. It is not pretty, and not an improvement over the scores we got 4 years earlier.

A report card is a progress report, and our grades show we are not making progress. So it is time to get serious about the sorry state of America's roads, bridges, ports, and pipes, which literally keep our economy moving.

The Civil Engineers estimate that we need an additional \$2 trillion in infrastructure investments over the next 10 years to get our infrastructure back to a B grade level. The study also found that there is a cost for lousy infrastructure—that we are set to lose nearly \$4 trillion in GDP and \$7 trillion in lost business sales by 2025, which would result in 2.5 million fewer jobs that year.

America's declining infrastructure also faces growing demand. The Bipartisan Policy Center estimates an additional 100 million more people will rely on our transportation system by midcentury. The U.S. Department of Transportation says that we can expect twice the level of freight traffic on our

highways and roads by then, so our already worn-down infrastructure is going to take an even heavier beating. We have to be ready for this. We have to make smart investments in the infrastructure backbone of American commerce. We should make those investments now, and we should make them for the long term.

I am hopeful. Transportation infrastructure has been a rare bipartisan bright spot in Congress. After all, our red States and our blue States both have bridges that age and water mains that rupture.

Congress has tried many times to push large bipartisan infrastructure bills. In the 112th Congress, a bipartisan group led by Senators Kerry, GRAHAM, and Hutchinson, introduced the BUILD Act to create a national infrastructure bank that would have authorized up to \$10 billion to underwrite transportation, water, and energy projects.

The Partnership to Build America Act, introduced in the 113th Congress by Senators BENNET and BLUNT, also proposed an American infrastructure fund, this time financed with a form of tax repatriation.

In the 114th Congress, we were actually able to pass the first long-term transportation law in 10 years. The FAST Act—short for Fixing America's Surface Transportation—authorized more than \$300 billion in transportation infrastructure investment over a 5-year period.

We also passed the Water Infrastructure Improvements for the Nation Act to address drinking water emergencies and authorize a number of new Army Corps of Engineers projects, including the removal of pilings and debris from the Providence River in Rhode Island. These bipartisan successes, however, barely put a dent in our Nation's total infrastructure needs.

Out on the campaign trail, then-candidate Donald Trump spoke broadly of a \$1 trillion infrastructure push. I agree we have to make that investment in America's infrastructure, but we also need to make sure we get real commitment from Washington, not just public-private partnerships and nebulous tax cuts. To bring our roads and bridges into the 21st century, we need a far-reaching infrastructure program like Franklin Roosevelt's Works Progress Administration.

The Joint Economic Committee's Democratic contingent put out a report analyzing the President's proposal to use investor tax credits to close our infrastructure gap. What they found was that using these tax credits alone would actually “cost nearly 55 percent more than traditional infrastructure financing.” We can't let infrastructure turn into a special interest boondoggle.

In the absence of any sort of Executive plan or strategy, Senate Democrats, led by Minority Leader SCHUMER, put forward our own blueprint to rebuild America's infrastructure. It would invest \$1 trillion in the Nation's

infrastructure, as the President wished, creating over 50 million American jobs. The blueprint encompasses not just roads and bridges but parks, schools, hospitals, and airports. It calls for investing \$100 billion in smalltown communities that need revamped infrastructure, over \$100 billion in aging water and sewer systems, \$50 billion in our railways, over \$100 billion in public transportation, and \$30 billion in our essential port infrastructure. It would put billions toward modernizing our energy grid by connecting rural areas and driving investment in clean energy.

It includes strong support for American workers—something the President claims as a priority—with “Buy American” provisions to promote American-made products and protections like the Davis-Bacon law to make sure Americans earn fair wages.

For a coastal State like Rhode Island, which has to prepare for rising seas and increased storm surges from climate change, the blueprint includes \$25 billion to improve coastal infrastructure and make coastal communities more resilient. This includes competitive critical infrastructure resiliency funding, a new Resilient Communities Revolving Loan Fund, and support for the National Oceans and Coastal Security Fund, which I authored sometime ago to research, restore, and reinforce our cause. Our plan is big, it is bold, and it should garner the support of anyone who says they want to improve America's infrastructure and create jobs at home.

This work is vitally important in my home State. The American Society of Civil Engineers' report card shines a light on Rhode Island's particular infrastructure woes. It shows we need \$148 million for drinking water infrastructure needs and nearly \$2 billion for wastewater infrastructure fixes over the next 20 years. We have \$4.7 million of backlogged park system repairs and a \$241 million gap in needed upgrades at schools.

More than half of our roads are in poor condition. A lot of our infrastructure, unlike Alaska, dates back to colonial days when the foundations of our roads were first traveled by ox carts. This state of disrepair costs my constituents a lot of money. I have been told by the transportation research group TRIP that driving on cracked and crumbling roads in Rhode Island costs our motorists \$604 million per year—more than \$810 per motorist, per year, in vehicle repair and operating costs from banging into potholes.

In our State, 56 percent of the bridges are deficient or obsolete. That, I am sorry to say, is the worst rate in the country. Those bridges have been around a long time in many cases, and they are literally falling down piece by piece. It can be pretty shocking to see.

This photo shows part of the 6/10 Connector in Providence. The interchange is a vital link in the State's highway network for vehicles traveling between

Interstates 95, 195, and 295. It was built in stages through the 1950s, and it can no longer accommodate the approximately 100,000 automobiles and heavy trucks that travel on it each day. Our department of transportation has spent millions of dollars on temporary maintenance to keep the interchange shored up and in operation, but you can see that this type of jury-rigging is not a lasting solution.

While Rhode Island directs millions of State funds to repair and replacement of these structures, we need some Federal financing to ensure that this work gets done before a serious failure occurs, which could disrupt commerce up and down the entire Northeast Corridor.

The evidence of dangerous disrepair is all over my State. This photo depicts a crumbling bridge on Route 37, the east-west freeway servicing the cities of Cranston and Warwick. The tumble-down cement and rusting ironwork are not reassuring. Here is another graphic showing a rusted and ramshackle bridge over Highway 95. We can save money in the long term—a stitch in time saves nine—if we can get on to these repairs and get these bridges fixed.

We also have to consider the bridges, roads, ports, rails, and other transit systems in the Ocean State that are, as you might imagine, very close to our coast. This infrastructure is at particular risk from sea level rise, from storm surge, and from the more severe storms that come at us offshore, driven by warming seas and climate change.

Recently, NOAA released updated global sea level rise estimates, and they focused those global estimates on the U.S. coastline. The estimate for their “extreme” scenario—that is, if we continue to emit high levels of carbon pollution—was increased by half a meter, to a total of 2.5 meters or over 8 feet of global mean sea level rise by 2100.

My State’s Coastal Resources Management Council has adopted the “high” scenario for planning purposes and made the adjustments for the local conditions, and they now put 9 vertical feet of sea level rise as the expectation for Rhode Island’s coast by 2100. Of course, as any coastal Senator knows, when you go straight up 9 feet, you can go a long way back, pushing the shoreline into what is now inland, flooding a lot of infrastructure.

We need to protect evacuation routes from flooding, we need to bolster hurricane barriers, and we need to replenish beaches and nourish wetlands. To protect infrastructure from storms, we need to raise ports and reinforce bridges that are exposed to corrosive saltwater from storms. We need to manage upstream reservoirs to control downstream flooding. We need to protect groundwater drinking water supplies from intruding saltwater. We need to retrofit lowland wastewater treatment plants that are in danger of flooding. Some of them are not just in flood

zones, they are actually in velocity zones where wave action is expected against the structures. These improvements are essential to meeting our infrastructure needs over the coming decade.

Every coastal State—especially those in the Northeast and the western Gulf of Mexico, which are expected to see the most dramatic rises in sea level—should be nervous. That is why the Democratic infrastructure blueprint includes funding for resilient coastal communities, including support for the National Oceans and Coastal Security Fund. I have worked to establish this lifeline for coastal infrastructure since my early days in the Senate. Once we fund it, it can be a tremendous resource for coastal communities needing infrastructure improvement and smart coastal adaptation.

President Trump has said he wants a \$1 trillion infrastructure bill. I am ready to roll up my sleeves and “git ‘er done.” Democrats have put forward a blueprint for making the investments our Nation so badly needs. Congress can come together on a plan that can provide direct, long-term support and help communities address current needs, while also preparing for the changes we know are coming down the pipeline at us. I say to my Senate colleagues and to the administration, let’s get to work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

MIDDLE EAST CODEL

Mr. COTTON. Mr. President, I returned last week from the Middle East, where several colleagues and I spent the weekend meeting with leaders and security officials in Lebanon, Jordan, and Israel. As usual, the men and women who assisted us were consummate professionals, whether it was the U.S. Marines, Embassy personnel, or our own military escorts and congressional staff. They all did a superb job, and I want to extend to them my deepest thanks. I want to say a few words about what we learned while we were there.

Contrary to conventional wisdom, our allies told us they are more optimistic about their relationship with the United States now than they were under the last administration. If you thought diplomacy consisted simply of suave sophistication, I can understand your confusion. But among our allies, there is no confusion about what their interests are, how the United States shares them, and which country in the whole region threatens them most of all—Iran. Once you realize that, it is not so hard to understand their morale boost. Do they watch what we say? Yes, of course, very carefully. But they watch even more carefully what we do, and even though our foreign policy was cloaked in “pretty words” over the last 8 years, they see the difference in leadership as clear as day. The last President coddled Iran, and this President is confronting Iran.

Every conversation we had drove home this point: Iran is the single most destabilizing force in the Middle East. That is because it is more than a regional power, it is a revolutionary power. The regime in Tehran is not satisfied with finding good trading partners or even bullying other countries into proper neighborly deference. Big countries throw their weight around all the time, after all. No, what is different about this regime is that it is not trying to create clients; it is trying to create clones. It wants to expand its influence by subverting legitimate governments in places such as Yemen and Lebanon and replacing them with radical regimes. Countries that it can’t subvert, it tries to destroy, like our friend Israel. And its aggressive sectarian ideology drives Sunni Muslims into the arms of extremist groups like the Islamic State.

There is no getting around the fact that in the Middle East, the answer to most questions is Iran, and our allies have told me repeatedly in recent months that they need our help to confront Tehran’s campaign of imperial aggression.

In Lebanon, I am happy to say there are some signs of hope. The new Prime Minister, Sa’ad Hariri, has formed a government and is purportedly on the verge of approving a budget—the first of its kind since 2005. For years, the Lebanese Government has struggled with the growing influence of Iran’s proxy, Hezbollah, members of which are on trial for carrying out the assassination of the Prime Minister’s father, Rafic, in 2005. But now that Hezbollah is committed to the war in Syria, the Lebanese Government has an opportunity to take control of its border, its army, and its governing institutions, free of their terrorist influence. We should take all prudent steps to support Lebanon as it strives to create security and stability for its own people and its neighbors.

Then there is Jordan, which for so long has been a relative island of calm in a tumultuous region. The Hashemite monarchy has been a faithful friend to America for years, but now, for the first time in recent history, Jordan faces a hostile, aggressive power on its borders—ISIS. It is also under an immense strain as it deals with hundreds of thousands of Syrian refugees living in its territory. Today, Jordan spends up to 25 percent of its budget on helping refugees. We need to continue helping this bulwark of stability stand against the forces of Islamic extremism by sharing intelligence, helping train police and counterterrorism forces, and partnering in the fight against ISIS.

Finally, there is Israel, which it is no secret that the regime in Tehran has vowed to destroy. While we were overseas, Israeli warplanes struck deep into the heart of Syrian territory. They were targeting a convoy of advanced missiles bound for Hezbollah. In a serious escalation, Syria fired missiles not

only at Israeli aircraft but at Israeli territory, one of which was intercepted by the Arrow 2 missile defense system. This incident goes to show just how important our aid is to protecting Israel's security and how important Israel is to confronting Iranian-sponsored aggression. We must continue to support Israel and its development of advanced missile defense systems.

I am happy to report that all three of our allies continue to seek ever-closer friendship with the United States. They are optimistic about their ability to work together under the new administration, and they sincerely appreciate everything our country has done for them.

I saw for myself a reminder of this country's sacrifice at the U.S. Embassy in Beirut. There, you will find a memorial that is dedicated to the 241 Americans who died in the terrorist bombing of our Marine barracks in 1983. That atrocity was committed by Hezbollah, if anyone needed a reminder as to why we fight alongside our allies against the Iran-Hezbollah-Syria axis in the contest of supremacy in the Middle East.

If our trip taught us anything, it was that our allies will not give up the fight but that it will take American leadership to stop Iran's campaign of imperial aggression.

I yield the floor.

The PRESIDING OFFICER (Mrs. ERNST). The Senator from Colorado.

AGRICULTURE

Mr. GARDNER. Madam President, I rise to talk about the continuing challenge that our agricultural communities face across this country.

Just a couple of weeks ago, I came to the floor and cited a Wall Street Journal article with the headline: "The Next American Farm Bust Is Upon Us." Living in eastern Colorado, in a purely 100 percent agricultural community, I understand that when there is a downturn in the ag economy, it does not affect businesses on Main Street later that week or later that month; it affects them that very same day. He is not just somebody who is going in to buy a bag of seed or somebody who is going to the local implement dealer to buy a tractor. He is somebody who decides he is not going to be able to buy that pair of blue jeans that he thought he would or that piece of equipment he needed to help fix the fence. It means that the entire economy in towns like Yuma, CO, Burlington, CO, and Dove Creek, CO, are going to suffer enormously. That is why it is important that we continue the conversation in the U.S. Senate about what is happening in agriculture across this country.

I recognize that many people, when they think of Colorado, probably do not think of farms and ranches on the flatlands and prairies. They probably think more of Kansas for that than they do Colorado. If you look at Colorado, it is more than just snowcapped peaks; it is incredible agricultural diversity as well.

According to the 2016 National Agricultural Statistics Survey, Colorado ranks in the top 10 in production for the following agriculture commodities: barley, beans, sweet corn, alfalfa, potatoes, millet, sorghum, sunflowers, wheat, cabbage, cantaloupe, onions, cattle, lamb, and wool. Colorado is one of the top 10 producers in those commodities. It is a remarkable list that shows the diversity of Colorado from the plains to the mountains and the incredible production levels that we have achieved.

One of the goals I have had in the Senate, of course, is to help make sure that we have the right policies to support our farmers and ranchers throughout Colorado who are producing everything from barley to potatoes. I want to make sure that we work to add even more crops to this list of the top 10 in order to strengthen the agricultural industry in Colorado.

As I mentioned a few weeks ago when I came to the floor to talk about that crisis, the Wall Street Journal article highlighted a story from a farmer in Kansas. I recently talked to a farmer in eastern Colorado who is getting paid \$3.21 for a bushel of corn, but to pay the bills, his break-even point on that bushel of corn—the amount of money that it took to make that corn bushel—was \$3.92 cents. So he was getting paid \$3.21, and it cost him \$3.92. That is not the right side of an equation to be on if you are in business and, particularly, if you are hoping to pass that business on to future generations.

I think it is important that the Senate talk about commodity prices and that we talk about the impact that increased Federal regulations have had which make it more difficult for that farmer to survive, that have driven up the cost of doing business, that have driven up the cost that you need to be paid per bushel of corn so that you can help make ends meet.

I talk about barriers to exports and limited financing options. Those are four things that we have to lay out—commodity prices—and deal with. We have to make sure that we are decreasing the number of Federal regulations. We have to make sure that we remove barriers to export and allow agriculture to export. We have to make sure that we are removing any obstacles to the financing that a farmer or a rancher may have, particularly if the economy continues to deteriorate in our countryside, and we have to make sure that we have certainty in ag policy and certainty in regulations. The farm bill conversations continue. Let's make sure that we provide the certainty to our ag communities that they deserve and, quite frankly, demand.

According to the 2017 Colorado Business Economic Outlook—and this is an incredible statistic—net farm and ranch incomes are projected to be down almost 80 percent since the records that were set in 2011. By 80 percent, net farm and ranch incomes are projected

to be down. An 80 percent drop in just a few years is devastating for rural communities. I believe the exact numbers in Colorado are something like going from \$1.8 billion in farm income to a little over \$300 million in farm income just over a matter of a few years.

While we have done a good job of addressing regulatory concerns, we have to make sure that we are doing a good job of addressing continued trade opportunities in this country as well. Corn and wheat prices are hitting 10-year lows. The price is so low that it costs farmers more to produce the crop, as I mentioned, than it is worth on the market. You do not have to be an economist to figure out that that is not going to let you stay in business for much longer.

Simply put, we have a lot of people who are worried in Colorado and across this country for agriculture and our rural communities, which are dependent on their farms and ranches. The Presiding Officer is from the great State of Iowa—a leader in this country when it comes to agriculture. Whether you live in the Eastern Plains of Colorado or in the great State of Iowa, the fact is we have to provide that leadership on a global stage to make sure that our ag communities survive and thrive.

Earlier this year, I sent a letter to the Colorado Farm Bureau that solicited feedback on what Congress and the Federal Government could do to support Colorado agriculture. In their response, I received a number of recommendations from the Colorado Farm Bureau and a number of organizations that they reached out to to respond to my request and my question.

On the list, of course, was regulatory reform—one of the four pillars that we have to address in order to have successful agriculture in this country. Their concern is that overregulation creates uncertainty in regulations like the waters of the United States and the BLM 2.0 rules.

The good news is that, with regard to both of these rules, we have been able to roll them back. According to the Colorado Farm Bureau, the waters of the United States regulation threatened to add additional regulatory compliance requirements to thousands of stream miles and thousands of acres of agricultural land.

To put that in layman's terms, it basically would have said: Hey, you, the Federal Government, you are in charge of every molecule of water.

That is not good for agriculture. Thankfully, the administration has said: No, we are going to stop that, and we are going to repeal it. Courts across this country had actually put in stays.

The Presiding Officer from the great State of Iowa—our colleague, JONI ERNST—was a leader when it came to stopping the waters of the United States regulation. Luckily, we have seen that regulation being stopped in its tracks.

In Colorado, two-thirds of waterways were identified as what is known as

“intermittent flow.” That means that they do not have water in them year round, that, part of the year, they are dry. Yet they would have been subject to a regulation known as the waters of the United States, even though they did not have water in them. That is the absurdity of the Federal Government. So I am glad that we are able to start rolling back these regulations.

At the same time, the Bureau of Land Management had started a process known as its BLM 2.0 rulemaking process, which is a rule that they had issued that they thought would deal with complex permitting issues and land use decisions. Unfortunately, what this rule would have done instead is take away access to thousands of acres of Federal land that were used for grazing. Even more disturbing, it would have given somebody in downtown New York City just as much say over the land in Moffat County, CO, as a Moffat County commissioner—somebody who lives there—amongst various agencies in the Federal Government that oversee thousands of acres of public lands. That, too, was overturned by the U.S. Senate.

In fact, if you look at the total number of regulations that the administration and that the U.S. Congress has been able to overturn, we are approaching \$60 billion worth of regulatory relief that we have been able to give to the American people; \$60 billion worth of regulations have been taken off the backs of hard-working Americans and has allowed them to do their jobs easier, allowed them to make ends meet easier, allowed them to breathe easier when it comes to job creation and job opportunity.

I am very glad that we saw the BLM 2.0 rule repealed, which gives our people in Colorado a little bit more of a chance to have a say in what happens in their front yards and their backyards. Of course, the waters of the United States has to continue to be something that we stop as we move forward.

There are other positive steps we should take to give our producers additional regulatory certainty. I know there is more that we can do, and I hope to hear from our Nation's farmers and ranchers and our farmers and ranchers in Colorado on how Congress and the Federal Government can help.

So I use this opportunity to make an appeal to people across the country in order to hear from farmers and ranchers, whether you are in the Eastern Plains of Colorado or on the Western Slope of Colorado or in the great State of Iowa or Kansas or anywhere in between and outside the State of Colorado—inside and outside—of the things that we can be doing, such as with trade policy, regulatory policy, financial services opportunities, making sure we have farm bill programs that are working. Back in my office, we want to hear about these ideas and about thoughts moving forward on these important issues so that we can

have an agricultural community that thrives and so that we can make sure that, when we talk about bringing generations of farmers and ranchers back to the farm and the ranch, we will get their ideas on how best to do that.

This week, I will be sending letters to the Colorado Agriculture Council, which is made up of organizations across the agricultural spectrum in Colorado, as well as to Don Brown, who is the commissioner of the Colorado Department of Agriculture, on what else Congress and the Federal Government can do to help support this industry. Also, there is Julie McCaleb, the Colorado Agriculture Council chair.

Basically, I will be writing: Hey, whether it is regulations or legislation, it is important that the administration and Congress understand the impact their policies will have on agriculture. I look forward to hearing from you, your member organizations, and farmers and ranchers throughout the State on how we can work together to ensure Colorado agriculture continues to be effectively represented in Washington.

We will be sending this letter, of course, to Commissioner Don Brown. Commissioner Brown is from my hometown. He is a corn farmer and a cattleman. He is somebody who understands firsthand the hard work and challenges that go into making ends meet in agriculture. He also understands the suffering that we are seeing in the farmland right now and that some people may be at their wits' end in terms of trying to deal with their financial struggles.

We will be sending these letters out. I encourage people—farmers, ranchers, and leaders in counties—to contact my office and give us their ideas on how we can turn this “could be coming” crisis around so that we can actually start improving and growing agriculture again and so that we can make sure that we lead Colorado's diverse agricultural economy into a better state than it is today—in a better place than it is today—in terms of the economy.

Here, in the Senate, I believe that same bipartisan support exists for all of us to be reaching out to our communities and making sure that we hear from the heartland of America what we can do to help struggling farmers and ranchers.

I thank the Senator for her leadership in agriculture.

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

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

Mr. MERKLEY. Madam President, here in America we hope that families will have the opportunity to build successful lives in preparation for a beautiful retirement. That involves many

different factors. It involves the solvency of Social Security. It involves the foundation of a good, living-wage job. It involves, certainly, the question of whether, through one's life, they are able to save for retirement.

This has become more and more important over time because fewer and fewer jobs have a retirement pension plan. Without that, it is really incumbent on the individual to be able to succeed to put money aside, and we know how difficult it is for an ordinary working family to have the extra funds to be able to put into a retirement account. Certainly, we want to make that as simple and as easy as possible. But what we know is that the simplest strategy—which is to be able to save through your work, to be able to have funds automatically deducted from your paycheck so you never actually get it in your hands—is often unavailable.

According to one 2013 study, 40 percent of small business owners themselves had no retirement savings, 75 percent had no plan to fund their own retirement, and of those who are working for employers who hire and have 100 or fewer employees, more than 60 percent—62 percent of the workers—do not have access to a work-based retirement plan.

We can imagine the difference between going to work at a job where the employer says: Hey, we have a retirement plan. You just need to sign this document, and you will be part of it. Please sign up. After a few months, if you feel you can't afford to keep setting those funds aside, you can change what you are doing. You have that flexibility. You can choose between options for different types of investments. But it is all right there. It is all very easily accessible. All you have to do is do it. The difference between that and a situation where there is nothing in the workplace—no benefit in the workplace, no retirement structure—is that in that situation it becomes a much more complicated undertaking.

Fifty-five million Americans—nearly half of private sector workers—work for employers that do not offer any form of workplace retirement saving or pension plan. Roughly 45 percent of working-age households, half of which are headed by someone between 45 and 65 years old, lack any type of retirement account asset.

So if there is no structure to make it simple to plan for retirement, it is more likely that one goes into those golden years without any form of gold; that is, without the resources in the bank to back up Social Security.

We know that more than half of the folks who are on Social Security depend on it for more than 90 percent of their income. Or, more simply stated, for more than half of Americans in retirement, Social Security is essentially their only source of support, and it is often not enough to maintain even the minimal essentials of life.

Why is it that so many businesses don't set up a workplace plan? What it

really boils down to is complexity for the employer. A lot of small businesses don't have a human resources person. They don't have an extra individual who can do the administrative work to set it up. Maybe the plan requires a match, and the employer isn't sure they will be able to afford a match. There are all sorts of reasons that this is complicated. It is difficult either financially or just in terms of additive overhead for a small business. So they don't set up the plan.

We know that if they had a plan, employers would participate. We know that because in States that have plans, the employers participate. In addition, the General Accounting Office did a study in 2015 which found that the overwhelming majority of workers would participate in an employer-sponsored retirement plan if they had the opportunity to do so.

So this brings us to the fact that many States are saying: Let's make it easier for employees. There are 30 States that are looking at the possibility of the State setting up a retirement plan that wouldn't be attached to a single employer, so that an individual could carry it with them. For example, imagine that your teenager has their first job serving yogurt—one of the jobs that my daughter had—or as a lifeguard at a local swimming pool or serving coffee—those first service jobs they get. What would happen if, from that first job, 3 percent of their income was placed automatically into a retirement account—a retirement account that they could control the options of, a retirement account where they could increase the amount of their income to go into it if they wanted, or a retirement account that they could always opt out of if they chose to do so. But if they were automatically enrolled, we know the vast majority of individuals stay in the plan. If you go, then, automatically from job to job—and in our economy that is the way it works; people don't sign up with one company and serve there for 30 or 40 years—in every job 3 percent was being automatically deducted. Then when you actually went into retirement, you would have a sizable nest egg to complement Social Security.

That is what States are looking at. That is what they are pursuing. In more than half of the country, States are considering legislation to create a retirement savings opportunity for small business employees who do not have a work-based plan. Seven States, including my home State of Oregon, are already working at implementing these plans. On July 1 of this year, Oregon is going to launch its plan with a voluntary pilot group, and then it is going to expand to employers with 10 or more workers in 2018 and finally to all employers in the State in 2019.

Under this plan, employees who do not have an employer-provided savings account will be allowed to save part of their paycheck in their own personally managed accounts, and it will be auto-

matically deducted unless the employee decides to opt out. Once it expands to all employers, 800,000 Oregon workers are expected to have access to a State-sponsored retirement savings program. Again, this will be an automatic-in, opt-out strategy to make it really simple.

In Oregon, 95 percent of our businesses are made up of small businesses. More than half of our workers are employed by those small businesses. So this is a pretty good arrangement to facilitate this opportunity.

Now, here is something that we may not immediately think about. When an employee saves for their retirement and is, therefore, financially better off in retirement, it reduces the cost of government programs. Within the first decade after these plans are established, total State spending on Medicaid could drop by \$5 billion. In Utah, a recent study found that the State would save \$3.7 billion for five essential government support programs—not just Medicaid—over the course of 15 years.

When I first read about Medicaid costs dropping because of a retirement plan, I said: How does that work?

It turns out to be very simple. If you have saved money and are financially better off, you are not in a position where you would be in the Medicaid Program, thus reducing the number of people who are in it. This study found that over 10 years, for the States that are already working to implement plans, California would save more than half a billion dollars; Maryland would save more than \$100 million; Connecticut and Oregon, about \$60 million a piece; and Illinois, a quarter of a billion dollars. So that is just an interesting piece that we should be recognizing—that when families do better, not only do they do better, but they lower the cost of government programs, which I think many folks here, on both sides of the aisle, would say would be a terrific thing.

Then there is this principle of experimentation at the State level. Why would we in this Chamber, having failed to provide an automatic-in, opt-out opportunity as people move around the country to various jobs, having failed to do a Federal version of this, stop our municipalities and our States from experimenting to see if this is something that will increase the success of our families? Why would we stop a State from experimenting?

Now, I hear all the time here about States' rights. I hear all the time about how States are the place for experimentation, to see what works and what doesn't work, innovation. Give them the opportunity to try things. Well, this Congressional Review Act proposal says the opposite. It says: Let's stomp out experiments by our municipalities. Let's devastate and decree that you cannot experiment and innovate at the State level on a very significant challenge facing America. So whether you want families to succeed or whether

you simply believe in the power of local innovation and opportunity, you should be against this proposal.

What this proposal is about is this: There is a twist in the national retirement law known as ERISA that an employer might possibly have liability related to an employee signing up for a State-sponsored or a municipality-sponsored account. Well, that pretty much puts a wet blanket over employers signing up under these State plans or under these local plans, because the thought that you might have liability for something you have no control over doesn't sound like a good place to be. So to correct or clarify this, a regulation was issued and it should be obvious why it is right, which is that the employer will not have liability over provisions of a State- or municipal-sponsored retirement account. They didn't set it up. The employer didn't advocate it. The employer is not choosing where the investments go within the account. They are not deciding which companies' retirement plans get to participate as options or whether there are even company retirement plans. The employer is not doing any of that. The employer is simply the host. The whole point of the plan is to make it very easy for the employer, because that has been the burden in the past of an employer-by-employer plan. In this case, it is just automatically set up.

In States like Oregon, they are setting up a pilot project, where employers are willing to experiment and be a part of it so they can learn from that. Then, they can design a better plan for larger small businesses, those that have more than 10 employees. Then, they can make it, after having worked the kinks out of it, work for everyone, including very small employers. If along the way they run into an obstacle, they can pause and work on that.

This is absolutely the best in policy strategy in America. Give municipalities, give States the opportunity to experiment, and on an issue that can help families thrive, help our young ones thrive.

I know that my son and my daughter are going to be better prepared for retirement and in a better financial position if, in every job they pursue in Oregon, they are automatically saving 3 percent of their income—or more if they choose to or less if they opt out. But certainly, the vast majority of workers, once in a plan, stay in the plan. It is kind of how it is with deductions on your Federal and State taxes. When it comes out of your payroll automatically, you get used to it, you adjust to it, and you say: Hey, that works.

So, to my colleagues, please oppose this Congressional Review Act proposition that will squash innovation by municipalities, and its companion will squash programs by States—programs that are very valuable, both for us to understand possible important policies to help set a platform for the success of our families, and it is very important

to the families themselves. Please vote no.

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

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

NOMINATION OF NEIL GORSUCH

Mr. CRAPO. Madam President, I rise today to speak about the President's nomination of Judge Neil Gorsuch to serve as Associate Justice of the U.S. Supreme Court.

Whenever great issues like the future of our Nation's highest Court come before the Senate, it is easy to get lost in the noise and the hyperbole. Listening to the commentary about Judge Gorsuch, I have found it instructive to ask whether critics have actually met him and listened to his philosophy of jurisprudence.

I have met him, and it is easy to guess that those who oppose him likely have not spoken to him, watched the hearings, or read any of the glowing testimonials from across the political spectrum. The invectives thrown at Judge Gorsuch seem really to be about something else entirely—about anger at the President, disappointment with the election outcome, or concern about holding certain hotly debated topics of the day. It appears that critics could substitute almost any name for Judge Gorsuch in their statements and give them with the same passion and the same concern.

That is too bad because Judge Gorsuch has been consistently regarded by his peers as pragmatic and among the most gifted legal minds on the Federal bench. The man is intelligent, courteous, and modest. He seeks readily the views of those around him. His approach will be a constructive addition to the U.S. Supreme Court and of benefit to our Nation. His judicial record as a Federal judge flows exactly from what he says, and his message and focus is abundantly clear: judicial modesty and fidelity to the law.

When our representative government was established in the United States, a heated debate emerged about the purposes and powers of our new Federal institutions. The Founders of our country understood that a system in which lawmaking was detached from accountability was the quickest path to despotism. A coequal judiciary could help temper tyranny and balance the powers of an executive and a legislature stepping over their constitutional powers. The phrase is "checks and balances" not "usurpation."

Alexander Hamilton, who has received much recently renewed attention, wrote at length about the newly imagined judicial branch of our government. In *Federalist* 78, Hamilton wrote that the judicial branch "may truly be

said to have neither force nor will, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments."

To the Founders, the division of responsibilities between the three branches of government was clear: Congress would make the laws. The executive would implement them. The judiciary would review the laws for their legality and consistency with the Constitution. Further, the independence of the judiciary would be enhanced through their distinctive selection process, so they could do their jobs without succumbing to swings in popular opinion. Put succinctly by Chief Justice Roberts during his confirmation hearings, a judge's proper role is "to call balls and strikes."

In his testimonial to the late Justice Antonin Scalia, Judge Gorsuch emphasized the importance of an independent judiciary. He writes:

Judges should . . . strive to apply the law as it is, focusing backward, not forward, and looking to the text, structure, and history . . . not decide cases on their own moral convictions.

Judges "take an oath to uphold" the Constitution, not "merely consider it." It is their duty to follow the law.

Jurisprudence is not supposed to be the popular arts. Judges are not vessels for moral causes. Judge Gorsuch repeats Justice Scalia's words:

[I]f you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong.

Further, Judge Gorsuch states that rulings made in an attempt to optimize social utility introduces a question of moral relativism.

In criminal cases, for example, we often hear arguments from the government that its view would promote public security or finality. Meanwhile, the defense often tells us that its view would promote personal liberty or procedural fairness. How is a judge supposed to weigh or rank these very different social goods?

The answer lies in the common points of reference for all judges, be they conservatives or progressives—the written law. Reading the law is difficult enough without introducing the element of uncertainty. Court-shopping for a pliant judge who will interpret the law the way a litigant believes it should read can be destructive to public confidence in the legal system.

In our democracy, the public expresses its will at the ballot box and empowers its duly-elected officials with the duty to advance that will. Changes in public attitudes can come quickly, and that can be reflected in the results of elections.

Congress is the body most closely connected to the American public because its accountability is directly to the people.

Some observers want judges to be legislators, discarding the black robes for populist impulses. But our system

of checks and balances is predicated on the fact that change comes deliberately and incrementally, notwithstanding the wild swings in public mood.

The pace of change can understandably frustrate. However, congressional action is the spirit of the American electorate, exercised with its unique combination of majority rule, minority rights, and compromise. The imperfect caldron of the legislative process is how change happens carefully, purposefully, and properly.

Unfortunately, impatience can drive people to try to circumvent the constitutional power of Congress. The tendency of some to race to a courthouse, bypassing the will of the people expressed through Congress, to compel change is inherently destabilizing to representative government.

Without a direct say in how policy is decided and without the ability to hold people accountable, judges who re-imagine the law undermine a fundamental cornerstone of representative democracy. Judges have a great responsibility to carefully exercise their judicial authority within the limits of the law. Judges who exercise independence from anchors of our law are dangerous to our liberties. Judge Gorsuch demonstrates that he clearly understands this concept when he writes:

Legislators may appeal to their own moral convictions and to claims to reshape the law as they think it should be in the future. But judges should do none of these things in a democratic society.

Some jurists treat the Constitution like a speed bump as they hurdle down the road reinventing the law. Substituting ideology for the written law in jurisprudence is the equivalent of changing the law from what it says to what some wish it says.

Neil Gorsuch identified this very problem when he wrote in 2005 that "the courtroom as the place to debate social policy is bad for the country and bad for the judiciary. In the legislative arena, especially when the country is closely divided, compromises tend to be the rule of the day. But when judges rule this or that policy unconstitutional, there's little room for compromise: One side must win, the other must lose. . . . As a society, we lose the benefit of the give-and-take of the political process and the flexibility of social experimentation that only the elected branches can provide." These words reflect a clear understanding of the importance of the separation of powers.

The Federal judiciary should not be a replacement for doing the hard work of persuading the public and enacting policy with accountability to the electorate.

Americans learn civics early in their upbringing. The Constitution guarantees certain civil liberties and restrains the powers of the central government. Our court system has the responsibility to preserve our constitutional rights, ensure a limited government, and provide speedy and fair justice when needed. The judiciary holds the sole constitutional power to interpret laws properly enacted by Congress. This authority is expressly distinct from the power bestowed to the legislature to write laws and the executive to enforce them. This separation of powers plays an important role in the system of checks and balances envisioned by the Founders.

Public confidence in our legal system is undermined when judges seek to re-imagine Federal law beyond its clear meaning. Judges who substitute their personal views for the law can shake the public's faith in our legal system as an impartial protector of our rights and an upholder of justice. Judges must follow our Constitution in their decisionmaking and resist this temptation to make policy.

Moreover, without the public sanction of the ballot box, policy changes, particularly controversial ones, naturally divide people. If the judiciary cannot be seen as a neutral arbiter of facts and laws, even more people will see individual judges as "one of mine" or "one of yours."

The erosion of the humble judiciary began when the Senate confirmation process changed. In recent past, district and circuit court nominees used to be confirmed noncontroversially. Now, instead of looking at the qualifications of the judicial nominee, partisans hope to pre-bake court decisions through the use of litmus tests or demands on nominees to determine in advance what their rulings will be on cases before the matter is even argued to the court. Perhaps this is the logical extension of the overreliance on some to secure social gains they cannot achieve through the democratic process.

Change is hard, and patience is exceedingly rare, but the strongest building blocks to legitimacy are achieved through consensus and the give-and-take of politics.

Writing even before he was overwhelmingly approved by this body for his current seat on the Tenth Circuit, Judge Gorsuch wrote:

[In courts,] ideas are tested only in the abstract world of legal briefs and lawyers' arguments. As a society, we lose the benefit of the give-and-take of the political process and the flexibility of social experimentation that only the elected branches can provide. At the same time, the politicalization of the judiciary undermines the only real asset it has—its independence. Judges come to be seen as politicians and their confirmations become just an avenue of political warfare. Respect for the role of judges and the legitimacy of the judiciary branch as a whole diminishes.

The judiciary's diminishing claim to neutrality and independence is exemplified by a recent, historic shift in the Senate's confirmation process. Where trial-court and ap-

peals-court nominees were once routinely confirmed on voice vote—

Based on their credentials and their ability to serve—

they are now routinely subjected to ideological litmus tests, filibusters, and vicious interest-group attacks. It is a warning sign that our judiciary is losing its legitimacy when trial and circuit-court judges are viewed and treated as little more than politicians with robes.

This development puts a severe strain on our Republic. Particularly problematic is the increasing number of split court decisions. Rulings that are given with a one-vote margin further empower litigants to contest decisions, hoping for a more favorable outcome later or in a different court. Setting precedent, though, becomes so much more difficult for the public when a razor-thin decision is accompanied by a dramatic reinterpretation of the law.

One of the hallmarks of the Roberts Court is the drive to establish precedent not by finding the narrowest reading that can achieve a bare majority but its endeavor to ground seminal decisions in large majorities and unanimous findings. Public confidence in the legal system and the finality of the holding is ever greater when we do not see narrow decisions.

The Judiciary Committee just concluded a 4-day review of the nomination of Judge Gorsuch. In addition to hearing from Judge Gorsuch for over 20 hours, the committee received formal testimony from almost 30 outside witnesses. Thousands upon thousands of words were exchanged over the course of the hearing, all in front of the American public. What the people saw is a thoughtful, humble, and brilliant legal mind in the service of the people.

In response to a question of mine on Tuesday, Judge Gorsuch said the following:

I come here with no agenda but one, no promises but one: to be as good and faithful a judge as I know how to be. That is it. And I cannot promise or agree or pledge anything more than that to this Congress.

That statement and the hearing as a whole confirmed Judge Gorsuch to be a man of great integrity, a mainstream, exemplary student of the law whose record shows that he is a part of unanimous decisions. On the Tenth Circuit, of all the decisions he has participated in in the last 10 years, 97 percent of the time, he was a part of a unanimous court, and 99 percent of the time, he was in the majority.

For days, my colleagues from the other side of the aisle raised the possibility that he might have secret intentions to try to subvert the law or shred the Constitution from the bench. They parsed single words for hidden meanings, imagined devious strategies emerging from concurring opinions, and searched for cloaked messages in his published writings.

Judge Gorsuch has over 10 years as a jurist, with 2,700 opinions to review; yet most of the debate was centered on

just 4 or 5 cases. Some Senators were absolutely convinced they would find some problem. They did not.

Let's talk about what Judge Gorsuch testified to under oath. Despite repeated efforts to get him to make commitments about how he would rule or how he would reshape social policy, on his first day, he gave no fewer than eight assurances that he follows the law as a judge. By my count, on the second day, he gave at least 36 assurances that he looks to the law for his rulings. On the third day, it was 29 more times that he was asked and again repeated that he would look to the law for his rulings. That is right. He said at least 73 times that he is committed to the law when he hears a case as a sitting Federal judge. Still, several of my colleagues worried that he had a secret agenda to overturn longstanding legal precedence.

Just in case there are some confused, Judge Gorsuch mentioned no fewer than 97 times in these 3 days that he follows precedent as a judge, as he is bound to do. More than 160 times, Judge Gorsuch reminded the Senate and the American public what a proper jurist does: follows the law and the precedent. We even talked about the book he coauthored titled "The Law of Judicial Precedent"—942 pages of dedication to following precedent. Maybe the title of the book was confusing to some.

During his oral testimony, he said he was dedicated to "rul[ing] as the law requires," "reading the language of the statute as a 'reasonable person' would understand it," and "respect[ing] precedent."

Just to put all such questions to rest, he assured everyone that he is "without secret agenda. None."

In reviewing his record, it is clear that those who come before Judge Gorsuch receive equal treatment under the law. He said:

When I sit on the bench and someone comes to argue before me, I treat each one of them equally. They do not come as rich or poor, big guy or little guy. They come as a person. And I put my ego aside when I put on that robe, and I open my mind, and I open my heart, and I listen.

In Judge Gorsuch, we have a nominee who lives the American ideal of a modest jurist. He understands that his responsibility is not to suborn the powers of others but to help deliver the powers of justice.

Those who have encountered him as a legal advocate, an adversary in court, or a presiding judge all praise his fundamental fairness and subordination of his personal views.

His respect for the Constitution is not in question. His experience, wisdom, and judgment are not in question. His capability to serve is not in question. Commentators from both the left and the right overwhelmingly respect his legal mind and vouch for his commitment to fair jurisprudence.

Given Judge Gorsuch's judicial philosophy and his record as a judge, he

would be a welcome addition to a Supreme Court seeking cohesive decisions. His record on the Tenth Circuit is strong. Five of six of his decisions that did go to the Supreme Court for a review have been affirmed by the Supreme Court, including one which he wrote, and four out of five on which he joined the decision.

Not many judges have the experience, temperament, and stellar record to match Judge Gorsuch. Fewer still can garner overwhelming endorsement from colleagues, peers, and observers from across the political spectrum.

Some may try to distract from the central point that Judge Gorsuch is extraordinarily qualified and suited to serve as an Associate Justice. Others would like to discuss other issues or make his nomination a proxy fight about tangential matters. My colleagues and I will vote on his nomination, not on these other issues or distractions. I encourage all of us to remember that.

The Senate should be proud to add Judge Neil Gorsuch to the Supreme Court.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Madam President, I would like to thank my colleague for his good comments regarding Neil Gorsuch.

I rise today to strongly support Neil Gorsuch for the U.S. Supreme Court.

First, there is no question that Judge Gorsuch is qualified for this job. He served as a law clerk for two Supreme Court Justices, Justice Byron White and Justice Anthony Kennedy. He has also had a distinguished career in the public sector and in the private sector. Finally, of course, he worked in the Office of the Attorney General. He worked in the Justice Department, and he had a great reputation there as well.

Of course, in 2006, not that long ago, he came to the floor of the Senate to be confirmed to the Tenth Circuit. And guess what. He was unanimously confirmed by this body. In fact, at the time, Senator Hillary Clinton voted to confirm him. Senator Joe Biden voted to confirm him. Senator Barack Obama voted to confirm him, and, by the way, so did a number of Democrats who are currently serving in the Senate. Not a single Senator objected. Why? Because the guy is so well qualified.

Since then, in his 10 years on the Tenth Circuit Court, his record has shown that he is fair, he is independent, and he is a consensus builder, which only ratified what the Senate had done. It showed that, in fact, he was the kind of person who represents us well in court.

By the way, he is also a guy who knows how to find common ground. Listen to these numbers: 97 percent of the cases he has decided were unanimous decisions with the other two judges on the panel. Typically, as you know, these are judges who have been appointed by Presidents who are Republican and Democrat. Finally, he has

been in dissent less than 2 percent of the time. So this is a guy who 97 percent of the time is unanimous, and 2 percent of the time he is in dissent. Out of the more than 180 opinions he has written as a judge—180 opinions—only one had ever been appealed to the U.S. Supreme Court from the circuit court, and, by the way, that one was affirmed.

So this is a guy who clearly knows how to build a consensus, bring people together, and that is needed right now. It is needed in this body. It is needed in our country as a whole, and it is certainly needed in the judiciary.

By the way, it doesn't surprise me that he is a consensus builder. If you think about it, he was a law clerk for Justice Byron White and Justice Anthony Kennedy. They are both known famously as being consensus builders and being able to bring together disparate decisions to try to find a decision at the Supreme Court level. So he has seen it up close and personal. He knows how to do it.

I would say, though, in terms of this debate we are having, it is not just about Neil Gorsuch and it is not just about another seat, as important as it is, on the U.S. Supreme Court. It is also an opportunity, by voting for Neil Gorsuch, to ensure that we have reestablished the proper role of this body, of the legislative branch and of the judicial branch in our system of government.

Judge Gorsuch understands that his job as a judge is not to impose his views on people but rather to apply the law, as written—to apply the law as written. That is kind of a basic part of our Constitution.

He put it well in his testimony before the Senate Judiciary Committee. He said: "A judge who likes every outcome he reaches is very likely a bad judge." What does he mean by that? I think what he meant is that he doesn't believe in substituting his personal views for what he is supposed to do as a judge.

So you may not like the decision, but you are constrained by the Constitution, by the law, and that is what judges should do.

He went on to say that the job of a judge is "not about politics. . . . If judges were just secret legislators, declaring not what the law is but what they would like it to be, the very idea of a government by the people and for the people would be at risk."

I think he is right about that. It is not about what he wants. It is what the Constitution and the law say. Judges should not legislate from the bench. That is not their job.

Judge Gorsuch and I met recently, and he has met, I think, with about 80 of my 100 colleagues in the Senate, and he has talked to them about his views privately. I was very impressed with him. I was impressed with him as a person, his background, and his family. I was impressed with his approach.

I was talking about what he said that he is not going to substitute his own

personal views. He basically said to me what he said in public. He is going to uphold the law, as written, even if his personal beliefs had led him to vote against the law if he had been in my position, as a legislator. I think that is what you want in a court.

But don't take my word for it. Judge Gorsuch also has earned the respect of lawyers and judges across the spectrum. Professor Laurence Tribe of Harvard Law School, who was an adviser to former President Obama and to previous Democratic Presidents, has said that Judge Gorsuch is "a brilliant, terrific guy who would do the Court's work with distinction." That is Laurence Tribe.

Neal Katyal, who was President Obama's Acting Solicitor General—so a guy who knows a thing or two about arguing before the Supreme Court, because that is what the Solicitor General does with a lot of his time—has said that Judge Gorsuch's record "should give the American people confidence that he will not compromise principle to favor the president who appointed him. . . . He's a fair and decent man." Again, this is the Acting Solicitor General for President Obama.

Yes, this debate is about something bigger than that, even. It is about Neil Gorsuch. It is about his character, his experience, and his judgments, but it is also about something I think even more important than this division of powers in our Constitution. It is about the rule of law itself. What does it mean?

Why does that matter? It matters because laws are an expression of the will of the people. The Constitution itself starts out with this idea, of course: "We the people . . . establish this Constitution"—not "we the Congress" or "we the government." It is we the people who govern ourselves. The government is the servant of the people under our Constitution, not the other way around.

When judges try to change the law rather than apply the law, they make themselves into an unelected legislative body. That is not just arrogant, by the way. I think that is unfair. Not because it steals legitimate authority from us, the elected representatives in Congress, but because it steals that authority and silences the voices of the people who elected us. Ultimately, that is what this is all about.

In this Republic, Congress writes the laws, the President ensures that the laws are faithfully executed, and the courts apply the law and our Constitution to specific cases that come before them. That is how it should work. That is how our Founders intended it.

I think it is more important now than ever to have a Supreme Court that understands this role and resists the urge to act as a superlegislature.

In recent decades, the Court has been increasingly asked to decide a lot of important matters that affect us all. Think about it. Healthcare, or the Affordable Care Act is an example, and

immigration, energy and environmental policies, social policies, First Amendment rights to free speech, freedom of religion, Second Amendment rights, and a hundred other issues. The Court affects all of our lives in ways that are fundamental, and rulings by the Court, of course, cannot be appealed to a higher court. All you can do is change the law. On constitutional provisions, you can't even do that.

At the same time as the scope of judicial power has expanded and as the significance of the Supreme Court's rulings has increased, there are some judges who have essentially rewritten statutes that did not suit them. They have taken the law and said: We are going to rewrite this in a way that we think works better. That is not their job.

One example I would give you is that a couple of years ago, the Supreme Court ruled, for example, that the words "established by a state"—this was in the Affordable Care Act—could also mean "not established by a state." I mean, literally, the Court said that, and that "legislature" could also mean a popular referendum. So they took the very words of a statute and said: We don't like the way that is written. We are going to change these words, and we are going to adjudicate this matter based on our understanding of these words, which is based on our personal opinion.

I don't think these rulings made sense logically but, more importantly, they changed the law, as written by the people and the people's Representatives.

So the stakes are high here. We have to get this right. There are people who make the argument that the Constitution is such a living document, whose meaning evolves as popular opinion evolves, that we should make judges into basically pollsters or superlegislators. I don't think that makes sense. But, more importantly, I don't think it is fair, and it is one reason why so many people have felt like their voices aren't being heard, I believe, when the courts do that.

Again, Neil Gorsuch gets it. As he said in his testimony recently, his philosophy "is to strive to understand what the words on the page mean . . . [to] apply what the people's representatives, the lawmakers, have done."

This should be what we all want in a Supreme Court justice—someone who will fairly and impartially apply the law and protect the rights we have guaranteed by our Constitution.

To my colleagues on the other side of the aisle, I would make a plea today: I would say that in this regard, I would think Judge Gorsuch is exactly the kind of Justice that you would like, someone who is actually going to apply the laws that you write—that we write—and not impose his personal views.

The American Bar Association—not known as a conservative body—has unanimously declared Judge Gorsuch

"well qualified" for this job. That is their highest rating—"well qualified." That is what they have given him. The ABA has noted that "based on the writings, interviews, and analyses we scrutinized to reach our rating, we discerned that Judge Gorsuch believes strongly in the independence of the judicial branch of government, and we predict that he will be a strong but respectful voice in protecting it," meaning the independence of the judicial branch. That is pretty strong from the American Bar Association.

By the way, despite these accolades he has gotten and his respect for the lawmaking that so many of us do here in this body, some of my colleagues on the other side may decide to vote against Judge Gorsuch, and they certainly have a right to do that. Of course, they do. But let's at least give him a vote. Let's give him an up-or-down vote. He deserves that. If a nominee this qualified can't get an up-or-down vote on the Senate floor, it is not clear to me who could.

Some have argued recently that the standard for a Supreme Court Justice should be 60 votes in the Senate—not an up-or-down vote, not 51 votes or a simple majority. The Washington Post has looked at that recently, and the Washington Post gave the notion that it should be 60 votes three Pinocchios—that means the guy whose nose gets longer when he is not telling the truth. Here is what the Washington Post said: "There is no 'traditional' 60-vote 'standard' or 'rule' for Supreme Court nominations, no matter how much or how often Democrats claim otherwise."

That is the Washington Post.

In fact, as you probably know, two sitting Justices on the Supreme Court right now were actually confirmed by this body with less than 60 votes. Justice Thomas, a very controversial nomination at the time, was confirmed 52 to 48—hardly a tradition of confirming with 60 votes. Justice Alito was confirmed 58 to 42 only 10 years ago. In fact, as we have heard on this floor, there has never been a successful filibuster of a Supreme Court Justice in the history of this body. That is hardly the standard. So I urge my colleagues to give him a vote, and I hope the result will be the confirmation of this smart, mainstream, decent man who is so well qualified for the Supreme Court and who has made it clear, again, that he is not going to impose his personal beliefs on the rest of us but will apply the law as written, and he is going to adhere to the U.S. Constitution. That is the kind of judge who deserves the support of all of us.

Thank you.

I yield back my time.

The PRESIDING OFFICER (Mr. TILLIS). The Senator from Colorado.

(The remarks of Mr. BENNET pertaining to the introduction of S. 767 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BENNET. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

YUCCA MOUNTAIN

Mr. HELLER. Mr. President, I appreciate the comments my colleague from Colorado has made on energy. I have an energy speech here, also. We have the same goals, maybe coming from different perspectives, but both the Senator from Colorado and I are trying to achieve the same thing.

I appreciate his hard work. He and I have worked well together over the years on the Finance Committee, as he mentioned, with the investment tax credits to make alternative energy viable products and industries in both of our States and across this country, so I appreciate his hard work.

Mr. President, I come to the floor of the U.S. Senate today to discuss an issue that is extremely important to the State of Nevada, and that is Yucca Mountain.

For over 30 years, those two words, "Yucca Mountain," have incited frustration and anger for Nevadans across my State. It is not just a mountain 90 miles northwest of Las Vegas; it represents a decade-long fight by some in Washington to "wrong Nevada."

In 1982, the Congress approved the Nuclear Waste Policy Act and charged the Department of Energy with finding a long-term storage site for the disposal of spent nuclear material. At the time, Yucca Mountain was one of the many proposed geological sites to investigate.

Unfortunately, in 1987, the act was amended to concentrate only on one place, Yucca Mountain. Nevada, a State without any nuclear powerplants, was legally compelled to bear the sole burden of long-term storage of all of the Nation's nuclear waste. This decision was made on bad politics; it was not made on sound science. Ever since, the debate on solutions to this problem has been one-sided, and the study of alternative solutions has been curtailed.

Instead of honoring Nevada's persistent scientific and procedural objections to the repository, the Federal Government has spent decades of time and wasted billions of dollars to design and permit Yucca Mountain, all without any notion that Nevada would consent to the project.

I have spent the past decade in Congress successfully fighting off efforts to force this project on Nevada, and I will continue this fight for as long as I serve my State.

I want to be clear: Nuclear power is an important part of our Nation's energy portfolio. I am one of the most outspoken Republicans in Congress advocating to make our Nation's energy cleaner and more affordable. Nuclear energy, which represents about 20 percent of our Nation's power production, plays an important role in providing carbon emission-free baseload energy in many States, but Nevada—again, a State without a nuclear powerplant—should not have to shoulder the Nation's entire waste burden.

We have pursued other strategies to meet Nevada's energy needs. I can share a couple of those examples with you. More than two-thirds of Nevada's energy is produced by natural gas-fired powerplants. Just 2 weeks ago, I was at a groundbreaking at the Moapa Southern Paiute Solar Project, the first-ever utility scale powerplant to be built on Tribal land. This project will produce 250 megawatts of clean energy capable of generating enough clean energy to power an estimated 111,000 homes.

Last March, I joined with the Italian Prime Minister in celebrating the world's first combined solar-geothermal plant near Fallon, NV. This facility provides 26 megawatts of solar photovoltaic, 2 megawatts of solar thermal, and 33 megawatts of geothermal energy to Nevada customers.

Nearly half of the geothermal plants producing baseload clean energy in this country are located in Nevada alone. So overall, more than 2,000 megawatts of utility-scale renewable energy in Nevada, enough to power nearly 1 million homes, has been built to meet Nevada's needs. That includes 19 geothermal energy plants, 12 solar projects, 6 hydro facilities, 4 biomass or methane projects, 1 large wind farm, and 1 energy recovery station. These are just some of the examples we are doing in Nevada. Yet they continue to try to ram Yucca Mountain down our throats as if we are not doing enough.

As we examine viable solutions to the waste problem, it is important to note that there are some promising technological developments that could fundamentally change the Nation's waste storage needs. There are new reactor technologies that could repurpose previously generated spent fuel and produce carbon-free electricity with little or no waste. International research and development on innovative storage solutions and recycling processes could also be part of that solution.

Given the Yucca-centric strategy's previous failures, it would be logical for the government to try something new—some of these strategies that show promise—but, no, not here in Washington. Washington is at it again. Apparently, nearly 30 years of wasted time and billions of squandered taxpayer dollars is, simply, not enough.

The Department of Energy recently submitted what they call a skinny budget, including \$120 million, in part, to restart licensing activities for the Yucca Mountain nuclear waste repository. That \$120 million is a lot of money in itself, but let's be clear that it is just a fraction of the true costs.

Nevada has made it clear that it will contest each and every one of the 200-plus elements of any license application. State and Federal officials have estimated that the licensing process for Yucca Mountain will take 4 to 5 years and cost in excess of \$1.6 billion.

In these difficult times, I ask my colleagues: Is it financially prudent to invest over \$1.6 billion in any program

that has not yielded results in over 30 years?

In case there is any confusion, I want to make sure everybody understands that Nevada's position has not changed and that it is not going to change on this issue. Our Governor, Brian Sandoval, continues to strongly oppose the project. In fact, he shares my same sentiment, and he shared it with me a few weeks ago when he stated:

I will vigorously fight the storage of high-level nuclear waste in Nevada. Any attempt to resurrect this ill-conceived project will be met with relentless opposition and maximum resources.

Every serious presumed candidate for Governor in 2018—both Republicans and Democrats—strongly opposes Yucca Mountain. Nevada's attorney general, Adam Laxalt, recently requested \$7.2 million of State resources over the next 2 years to represent the State's interests in the licensing process over Yucca Mountain, which he called "a poster child of federal overreach." Soon, our legislature will reaffirm the State's opposition to the project with the passage of Assembly Joint Resolution No. 10.

To sum it up, it will cost at least \$1.6 billion just to get through the application process. Think about that. It will take \$1.6 billion just to get through the process, to get the applications ready, let alone to get the storage facility actually operational.

Make no mistake about it. I will continue to lead the Nevada congressional delegation's effort to stymie any misguided effort to spend one more Federal dollar on the Yucca Mountain repository. It is fiscally irresponsible and, simply, will not solve this important public policy issue that faces our Nation.

I implore my colleagues to work with me in a pragmatic way to solve our Nation's spent nuclear fuel and defense high-level waste storage problem that we have.

There is an old adage, and we have all heard it: The definition of doing the same thing over and over again and expecting different results is called insanity. Efforts by the executive branch and some Members of Congress to direct billions more toward a repository that will never be built is just that—insanity.

Our Nation cannot fully move forward with viable solutions until Congress moves past Yucca Mountain. Last year, the Department of Energy began a consent-based siting initiative to find alternative storage and disposal facilities. Identifying communities that are willing to be hosts for long-term repositories, rather than forcing them upon States that have outright opposed such sites for decades, is the only sustainable path forward.

I wholeheartedly support these efforts. In fact, I introduced bipartisan legislation earlier this year, the Nuclear Waste Informed Consent Act, to codify it into law. This strategy was wisely recommended by the Blue Rib-

bon Commission on America's Nuclear Future—a 15-member, bipartisan group that is tasked by the Federal Government to develop feasible solutions to nuclear waste disposal. This type of open process ensures all Americans have a meaningful voice in the process if their communities are being considered for a future nuclear waste repository.

I am confident that the government can find safe sites through the careful consideration of all alternatives that are based on credible scientific information and not by politicians here in Washington, DC. Let's stop the insanity. The administration and congressional Yucca advocates should focus their efforts on practical solutions and not on more of the same.

First, let's advance innovative energy technologies that repurpose and reduce spent fuel.

Second, let's invest in the research and development of recycling and alternative storage methods.

Third and most importantly, let's identify safe and viable alternatives for the storage of nuclear waste that remains in areas that are willing to house it.

These are worthwhile initiatives that actually, to use a football analogy, "move the ball down the field." For far too long, our Nation has been going "three and out" because Washington keeps trying to run the same, stale game plan.

I am working diligently on feasible solutions to this important problem, and I urge my colleagues here today, on the floor of the U.S. Senate, to join me in that fight. I stand here, ready to work for what is best for my State and what is best for our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am deeply frustrated that Republicans, in one of their first actions following their and President Trump's disastrous attempts to repeal the Affordable Care Act, have decided to bring to the floor yet another CRA that would hurt workers, hurt the middle class, and hurt our economy.

Last week, millions of families sent a very clear message to President Trump and Republicans: Enough with the attempts to turn back the clock on progress for working families.

Clearly, President Trump and Republicans are not getting the message because, today, in what can only be described as a truly shameless giveaway to Wall Street, Republicans are poised to roll back a rule that would, simply, allow cities to help small businesses provide their workers access to easy, affordable, and high-quality retirement savings programs.

Before I continue, I want to reiterate what is at stake if Republicans roll back this rule. If Republicans pass this anti-worker resolution that is on the floor today, over 2 million workers in Philadelphia, in New York City, and in

Seattle—in my home State of Washington—will lose the opportunity to access a retirement savings program.

I expect my Republican colleagues to make several claims as to why they are pushing to repeal this rule, but I want to be very clear that this is a deliberate attempt by Republicans to deny millions of workers the opportunity to save for retirement just to ensure that Wall Street remains in charge of our retirement system and can continue to write its own rules.

The 2 million workers who are at risk today in these three cities are part of the nearly 55 million workers across the country, which include 2 million workers in my home State of Washington, who do not have access to a workplace retirement plan through their employers. That is about one-third of all of the workers in our country. These are workers—particularly low-income and young workers—who are putting in long hours, meeting all of their responsibilities, but who lack access to an employer-sponsored retirement plan.

Because Congress has been unable to come together to address our retirement savings crisis, cities and States have now stepped up to help more workers save for their own retirements. These programs vary, but they all generally include several things.

First of all, they allow employers to automatically enroll workers while giving workers the opportunity to opt out. Several studies have made clear that, when workers are automatically enrolled, they are more likely to save simply because it is easier to save. We all want that, and that is a fact.

Secondly, these programs apply only to businesses that do not currently offer retirement plans, and they, in no way, limit an employer's ability to seek out and offer its own employer-sponsored plan.

Lastly, these programs are worker and business friendly. There is little paperwork required for workers to participate in the programs, and there are no added burdens to the small businesses. In fact, in these programs, employers are strictly required to serve only in an administrative capacity.

Last year, Democrats, in their working with the previous administration, pushed for guidance to provide certainty to cities and States that have launched their own retirement programs.

This guidance clarifies an existing safe harbor that allows employers to establish payroll deduction IRAs, which gives States the clarity that these programs will not be preempted by Federal retirement law while still retaining the protections under the Internal Revenue Code. These retirement programs are safe; they are secure. This guidance merely provides flexibility to cities and States to move forward with these programs. Again, this guidance provides clarity for small businesses, which facilitate these programs for their employees, in that they

may only act in an administrative capacity in operating these plans.

I think we all know what this repeal is truly about. President Trump is committed to doing everything he can to put the interests of Wall Street first. Unfortunately, with this action, Republicans in Congress are helping him do that.

It does not seem to matter if Republicans need to vote against policies they are on the record as having previously supported, like these retirement programs. Apparently, it does not matter if they need to vote to undermine our States' rights, as this resolution will do. It is becoming increasingly clear, without having a legislative agenda of their own, that Republicans are working to undo any and all rules and protections that had been put forth by the Obama administration.

It is not working. It is not leadership. It is not the kind of leadership our families deserve. After last week, I had hoped that President Trump and the Republicans would have dropped their extreme anti-worker agenda. Families nationwide are sending a clear message in marches and phone calls and letters and online and in their communities. They expect their representatives to be committed to working for them, and they are paying close attention—more than ever before—and are prepared to hold Members accountable.

This CRA is a critical vote. Families are watching. If you stand with working families, vote against this resolution. If you say you believe in States' rights, vote against this resolution. If you want to meaningfully address our retirement crisis, vote against this resolution.

I am here to urge all of our colleagues to reject this harmful repeal and to stand with our working families. That is what is at stake.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Oregon.

FILLING THE SUPREME COURT VACANCY

Mr. MERKLEY. Mr. President, the most important words in our Constitution are the first three words. Our Founders made sure that, when the Constitution was written, those were displayed—"We the People"—in super-sized font so that, generations later, we would not forget what our Constitution is all about.

Our Constitution was not crafted to create a government that would make decisions by and for the powerful. It was not crafted to create a government that would make decisions by and for the privileged. That was the power of the "we the people" vision, as President Lincoln so eloquently stated, "a government of, by, and for the people." Well, that is the vision we have the responsibility of maintaining, and it is a vision that is facing a dramatic test in this coming week—a test that affects the integrity of this body, a test that affects the integrity of the Supreme Court.

Back in January of last year, a Supreme Court seat came open. A Supreme Court seat for which the President had a responsibility to nominate a replacement, a new Justice to serve on the Court. We here in the Senate had a responsibility—a responsibility to exercise advice and consent. That meant that we would vet the nominee, that we would research, have a committee hearing, have a committee vote, and then forward it to the floor, where we would have a floor debate. But for the very first time in the history of the United States of America, the majority party decided that they would not exercise their constitutional responsibility, that they would instead steal this seat from the Obama administration, wrap it up, pack it into a time capsule, and send it into the future, in hopes that they would be able to succeed in packing the Court by having a different President, a more conservative President, proceed to fill the vacancy.

I am going to go through the 16 cases in our history where there has been a vacancy during an election year, and in 15 cases, the Senate acted. But last year, this Chamber refused to act, for the first time, in trying to exercise a seat-stealing, Court-packing scheme, and that diabolical act against our Constitution will have its final chapter of discussion next week. I think it is important that the Members of the Senate understand the history of the United States of America and the setting in which this debate is going to occur.

If you read the Constitution from start to finish, nowhere does it say that the Senate has the option of refusing to consider a Supreme Court nominee in the final year of a Presidency. This strategy was announced within hours of Judge Scalia dying. And why would the majority choose to reject their responsibility under their oath of office? Why would they choose to do that? Certainly it wasn't because Merrick Garland wasn't qualified. He hadn't been nominated yet. Certainly it wasn't because there was a precedent because there was no precedent in U.S. history for stealing a Supreme Court seat.

Here is what transpired. The majority said: This might be a nominee who will fight for the "we the people" vision of our Constitution, and we don't want that because we are committed to a different vision—a vision of government by and for the most powerful people in the United States of America—and we want to make sure that the Court has a 5-to-4 majority to keep turning the Constitution on its head, destroying the vision that this Constitution, our Constitution, was designed for.

Well, the President proceeded to carry out his responsibility despite the fact that the majority said: We are not going to consider your nomination because we are not going to honor our responsibilities under the Constitution.

Despite that, the President said he would honor his responsibility, and he nominated Merrick Garland on March 16.

The story here in the Chamber was that if he was on this floor, he would have plenty of votes, far more than 60 votes to be confirmed. So that kind of hardened the opposition, because there were more than 60 Senators who were going to say: Yes, let's embrace this mainstream judge who wants to fight for our "we the people" Constitution. But the leadership said no.

What have we seen unfold over the last few years of dark money ruling American campaigns? In 2014, we saw the Koch brothers decide that they wanted to control this Chamber, so they said: We are going to spend vast sums to elect a majority that will respond to our perspective as billionaires, coal and oil billionaires, kind of like a government by and for the powerful.

So they spent huge sums of money in Arkansas and in Louisiana and in North Carolina and in Iowa and in Colorado and in Alaska and in my home State of Oregon, and they won most of those States. Suddenly, there was the majority they had hoped for.

Then they sent a warning message to the Republican leadership in the form of this: In January 2015, the Koch brothers said: Pay attention because we plan to spend nearly \$1 billion in the next election, 2 years from now, and if you cross us, you might know the consequences because we can spend money in primaries as well as in general elections.

That is the background on how the Senate majority decided to steal this seat for the first time in U.S. history.

Just to make sure we are checking all of our facts on this, let's take a look at those various vacancies. As I mentioned, there have been 16 in our history. In one group of nominations, those vacancies occurred after the election, so there was very little time for the Senate to act.

Nominee John Jay—President John Adams—was nominated on December 18. At that point in time, the new President took office in March, so there wasn't very much time, but nonetheless the Senate acted and confirmed the nominee, and, in kind of an interesting twist of fate, the nominee turned down the post.

When Ward Hunt was nominated by Ulysses Grant in December of 1872—again, just a couple of months before the next President would come in—the Senate acted.

Let's take a look at William Woods. The nominee from President Rutherford Hayes was also nominated in December of that year, just months before the new President would come in, but nevertheless the Senate acted.

In all three cases, they confirmed the nominee within that short period of time. They debated. They vetted. They acted. They fulfilled their responsibility under the Constitution.

Now there is another group of nominees in an election year where the vacancy occurred before the election, but the nominee was nominated after the election, and there are four in that group. We have President John Quincy Adams, who nominated John Crittenden. The day he nominated him was in December of 1828—again, just a few months before the new President would take office—and in that case, it was proceeded to be acted on by the Senate. The Senate chose to postpone the action, but they acted. They took a vote. They decided.

There was Jeremiah Black, the nominee, in February 1861. There was a motion to proceed. The Senate voted, and they rejected it.

Then we have a nominee from Abraham Lincoln in 1864, and that nomination was confirmed.

Finally, under President Dwight Eisenhower, there was William Brennan, and that nomination was confirmed as well.

In all of these cases, even though the nomination occurred after the election and there was little time, the Senate acted.

There is a set of nine more nominations that occurred in an election year, and these are cases where both the vacancy occurred before the election and the nomination occurred before the election.

Nominee William Johnson under Thomas Jefferson. Final result: The Senate acted. They confirmed.

Edward King under President John Tyler. The Senate acted. They rejected that nomination, but they acted. They tabled it.

Edward Bradford under Millard Fillmore. They proceeded to again reject the nomination, but the Senate acted.

Melville Fuller—nominee under Grover Cleveland—was confirmed. And realize this was in May of that year.

George Shiras under Benjamin Harrison. He was confirmed. That happened in July that the nomination occurred.

Brandeis under Woodrow Wilson. He was nominated in January. Confirmed.

John Clarke, also Under Woodrow Wilson. Nominated in July. Confirmed.

All of these were before the election in a parallel case to the situation with Justice Scalia passing away and a nomination in the election year.

Benjamin Cardozo was nominated by Herbert Hoover. He was confirmed.

So there we have 16 cases—actually, I have only mentioned 15 so far—15 cases in our history in an election year, and in each and every case, the Senate acted—in each and every case except for the tragedy, the desecration of the Senate process that occurred last year.

Merrick Garland was nominated by Barack Obama in February. No action. The first no action in U.S. history. The first stolen seat in U.S. history.

Let's understand that this is politics out of control when Senators would ignore their oath of office, would proceed to engage in a Court-packing scheme

and steal a Supreme Court seat. This is politics completely unhinged. This is driven by the dark money of the Koch brothers. This is the powerful, behind-the-scenes puppet master telling the Senate what to do because they cannot afford to have a Justice who hadn't been appropriately vetted by conservative think tanks to make sure how they will vote on Citizens United possibly get on the Supreme Court. Nobody knew how Merrick Garland would vote on Citizens United. On the Democratic side, we worried that he might sustain it. On the Republican side, they worried that he might strike it down and be a "we the people" Justice. But instead of engaging in responsible Senate action required by our oath of office, for the first time in U.S. history, the majority, driven by a powerful special interest, the Koch brothers, decided to steal the seat.

So that is the setting in which next week's debate will occur. We have heard some very self-righteous words coming from the majority side saying: Look how qualified he is. How could you possibly say there is anything wrong with this nomination?

Well, I asked my fellow colleagues to realize the reality of what they are engaged in, that they had a responsibility and that every Senate majority in U.S. history exercised that responsibility until last year. And it corresponds to this enormous growth of dark, secret money under Citizens United entering our campaigns. It corresponds to the threat that the Koch brothers made in January of 2015 that they were going to spend nearly \$1 billion in the 2016 election.

One of our Republican colleagues said he thought the Senate should do their job. He thought we should hold a debate, we should hold a vote. And there was a tremendous pressure brought to bear on that colleague from the suppliers of this dark money, and then 3 days later he changed his position.

This is a corruption of the very foundation of our democracy, and that is why there is only one legitimate nominee who President Trump should put forward to end this act of theft, to honor the integrity of the responsibility of the Senate, and that is Merrick Garland. We don't know where he stands on lots of issues. He has been a judge who came right down the middle. He has been a judge whom everybody respected. He wasn't from the extreme. But the process of stealing the seat was to get a judge whom everyone knew where he stood, because they wanted to make sure that he would sustain Citizens United, that he would take the corporate side against the consumer time after time after time. This is why there is a tragedy unfolding right now. I urge the American people to pay attention because the very foundation of our democracy, of the integrity of our institutions are being shattered, degraded, and destroyed right before our eyes.

Those who care about the Constitution, those who care about the integrity of the Senate doing its job under its oath, those who care about the integrity of the Court must stand up and say no to this effort to pack the court.

One of the arguments colleagues made, not knowing the history of the United States, was that there just wasn't time. There was just not enough time to consider a nominee. So here is a little bit of information regarding time. Since the 1980s, every person appointed to the Supreme Court has been given a prompt hearing and a vote within 100 days. Since 1975, the average is 67 days.

So to those who said that this seat opened up in January and there wasn't time left to have the Senate exercise its responsibility, we can see that they were just presenting a falsehood, that there was plenty of time for the Senate to exercise its responsibility. To those who said that the nomination didn't come until March, there was still 10 months left. So from the time that Merrick Garland was nominated, 293 days were left in the administration.

For Kagan, consideration took 88 days; for Sotomayor, 67; for Alito, 83; for Roberts, 63; for Breyer, 74; and for Ginsberg, 51. Do we hear any numbers equivalent to 293 days?

Let's look at Thomas, 69 days, Kennedy at 65, Scalia himself at 85, Rehnquist at 89, and O'Connor at 33. They all fall into the same pattern of a couple of months for the paperwork to be done, the investigation to be completed, and the committee to hold hearings and to act. But there is Garland, with 293 days, and the Senate failing to act.

This simply reinforces the pretense put forward that there wasn't enough time, or that there was a tradition of not considering a nominee for a seat that became available in an election year, because it has happened 15 times previously in our history, and in all 15 times the Senate acted—every single one. So every argument put forward was phony, was wrong, and was based on falsehood. It was driven by dark money puppeteers of this Chamber wanting to make sure they could keep open their Citizens United money corrupting American campaigns and debasing our democratic Republic.

So to everyone who cares about the integrity of the Senate and the integrity of the Court, let this Senate know that they must return to respecting this institution and to respecting the Court. That means Merrick Garland must be the nominee until the Senate has acted on him, and the nominee before us must be rejected. To do anything else is to desecrate the integrity of this Court and this Chamber.

The PRESIDING OFFICER (Mr. COTTON). The Senator from Colorado.

NOMINATION OF NEIL GORSUCH

Mr. GARDNER. Mr. President, I come to the floor once again today to talk about the confirmation of Judge Neil Gorsuch to the U.S. Supreme Court.

In the 235 years of our Nation's history with the Constitution, there has never been a successful partisan filibuster of a Supreme Court Justice. What I mean by that is this: No Supreme Court nominee has ever been rejected by a partisan filibuster on the floor of the Senate. Now, sure, we can argue about the 1968 bipartisan attempt to make sure that then-Associate Justice Abe Fortas wasn't elevated to the Chief Justice position.

What this Chamber is facing today isn't a question of whether we will abide by the Biden rule. The Biden rule, of course, was when Joe Biden said: During the last term of the outgoing President, when the office is up for election, we are not going to confirm any nominees. This isn't an argument over whether CHUCK SCHUMER was right when Senator CHUCK SCHUMER said: Heck, over the last couple of years of the Bush administration, we are not going to allow a Justice to be confirmed.

That is not what we are arguing about today. We are arguing about whether a brilliant legal mind, a judge who has proven incredible legal temperament over the last several months since his nomination, a judge who has agreed 97 percent of the time with the majority decisions of the court, should receive an up-or-down vote.

Have no doubt that this is a historic opportunity for this Chamber to come together to prove that we believe in that 230-year precedent of confirming Supreme Court Justices. This is an opportunity we have to come together on a judge who just 11 years ago was confirmed unanimously by voice vote. There was no opposition 11 years ago to Judge Gorsuch when he was confirmed to be placed on the Tenth Circuit Court, which is based in Denver. Now, the Denver-based court, the Tenth Circuit Court, covers about 20 percent of our Nation's land mass. It is a huge, huge area. This is a court that deals with public lands cases. This is a court that deals with water issues, complex public lands issues, and Tribal issues. This is a judge who has been a part of 2,700 opinions, voting 97 percent of the time with the majority of the court.

Now, the majority of the court aren't all George W. Bush or George H.W. Bush or Ronald Reagan nominees. The nominees in the Tenth Circuit Court are bipartisan justices. It is filled with Democratic and Republican appointees. That is the Tenth Circuit Court, with whom Judge Gorsuch has worked. Judge Gorsuch has been somebody known as a feeder judge. A feeder judge is somebody that the Supreme Court—when they are looking to select clerks to help the Justices do their work—looks to, like Judge Gorsuch, to provide them with law clerks to help them at the Supreme Court. They do that because he is an incredible and outstanding jurist, somebody who has the respect on both sides of the aisle, Republican and Democrat. That is why he is a feeder judge. That is why he was

confirmed 11 years ago by a bipartisan body of Senators.

In the last couple of weeks, we have seen days' worth of hearings where each Senator has been able to speak for an hour or so, questioning Judge Gorsuch, days' worth of hearings where the American people witnessed as Judge Gorsuch laid out his legal philosophy and his temperament, and where he displayed the even temperament we need on a Supreme Court—the kind of temperament that not only is able to work with colleagues but understand complex legal cases. And 11 years ago his confirmation was so noncontroversial that when it came to his confirmation, Senator LINDSEY GRAHAM was the only one who showed up. He was the only one at the confirmation hearing. That is how noncontroversial it was. What a difference a court makes.

Now, let's talk about some of the Senators who supported him, or at least didn't object to him, 11 years ago. Then, Minority Leader CHUCK SCHUMER didn't oppose Judge Gorsuch of the Tenth Circuit Court. Senator LEAHY, a member of the Judiciary Committee, did not object to Judge Gorsuch. Senator FEINSTEIN, another member of the Judiciary Committee, didn't oppose Neil Gorsuch. Senator DURBIN, the minority whip, did not oppose Judge Neil Gorsuch 11 years ago. Senator CANTWELL, Senator CARPER, Senator MENENDEZ, Senator MURRAY—none of them opposed Judge Gorsuch's confirmation to the Tenth Circuit Court. Senator NELSON, Senator REED, Senator STABENOW, Senator WYDEN—all of them here today. None of them objected to Neil Gorsuch.

It is even more than that. Then-Senator Barack Obama did not object to Judge Gorsuch's confirmation. Then-Senator Hillary Clinton didn't object to Judge Gorsuch's nomination. Then-Senator Joe Biden helped pass his confirmation, his appointment, and made sure it cleared on a voice vote.

To hear the partisan bickering here is extremely disappointing and disingenuous. So I hope this Chamber will do what we do best in this country, and that is to come together on issues of doing our job of confirming a Supreme Court Justice after spending the past several months complaining that the Supreme Court wasn't filled.

This judge should receive bipartisan support, as he did 11 years ago. I guess the question has to be asked of people who are now opposing Judge Gorsuch today, who either supported or did not object to him 11 years ago: Did they not do their work 11 years ago? Did they not realize he was a bad judge? Or has the time of politics changed? Or are we just dealing with a President whom they have decided they don't want to have a Supreme Court Justice from? I guess that is what has perhaps changed the most over the past 11 years, because there is not really a narrative we can point to for a reason of why they should oppose him, other

than people just deciding that the politics of the now require it, and that is incredibly disappointing.

If we look at Judge Gorsuch's statements, he talks about Justice Scalia's vision of the good and faithful judge. I think it is a worthy one that we focus on because of what it means to Judge Gorsuch—soon to be Justice Gorsuch—to be a good and faithful judge:

It seems to me that the separation of legislative and judicial powers isn't just a formality dictated by the Constitution. Neither is it just about ensuring that two institutions with basically identical functions are balanced one against the other.

To the founders, the legislative and judicial powers were distinct by nature and their separation was among the most important liberty-protecting devices of constitutional design, an independent right of the people essential to the preservation of all other rights later enumerated in the Constitution and its amendments.

Now consider . . . if we allowed the judge to act like a legislature. Unconstrained by the bicameralism and presentment hurdles of Article I, the judge would need only his own vote, or those of just a few colleagues, to revise the law willy-nilly in accordance with his preferences and the task of legislating would become a relatively simple thing.

Notice, too, how hard it would be to revise this so-easily-made judicial legislation to account for changes in the world or to fix mistakes. Unable to throw judges out of office in regular elections, you'd have to wait for them to die before you'd have any chance of change. And even then you'd find change difficult, for courts cannot so easily undo their errors given the weight they afford precedent.

Notice finally how little voice the people would be left in a government where life-appointed judges are free to legislate alongside elected representatives.

The very idea of self-government would seem to wither to the point of pointlessness.

Indeed, it seems that for reasons just like these Hamilton explained that "liberty can have nothing to fear from the judiciary alone," but that it "ha[s] everything to fear from [the] union" of the judicial and legislative powers. . . .

That is the explanation that Judge Gorsuch has given to Justice Scalia's good and faithful judge—a judge who believes that the judicial branch is the guardian of the Constitution to take a decision or a question before them to the place the law leads them to, not to the place where politics sends them or politics demands them or personal opinions and beliefs dictate.

We have heard Judge Gorsuch say he believes that a judge who personally believes or agrees with every opinion he reaches is probably a bad judge. It is because Judge Gorsuch knows that once you put on the robe, you don't follow your personal opinion. You follow the law. That is the guarding of the Constitution that the Federalist Papers talked about.

So that is the kind of nominee we are dealing with—a nominee who understands the separation of powers and who understands the role of the judiciary, the role of the legislative branch, and the role of the executive. In fact, he believes that the executive branch has been empowered too greatly and

that we should once again have separate but equal branches of government balanced in power.

I think that is a good judge to place on the Court—a judge who is clearly mainstream, a judge who clearly has the temperament to work with colleagues to make our country proud.

Certainly as a fourth-generation Coloradoan, I am very excited Judge Gorsuch has been nominated by the President. In addition to the bipartisan support Judge Gorsuch received here 11 years ago, he also has tremendous bipartisan support back home in Colorado. In fact, I have a letter here from Jim Lyons, who was a personal friend and lawyer for President Bill Clinton. It is a letter to Senator GRASSLEY, chairman of the Senate Judiciary Committee, dated February 7, 2017.

I write this letter in strong support of the nomination and confirmation of Neil Gorsuch for Associate Justice of the Supreme Court.

He ends his letter with this:

Judge Gorsuch's intellect, energy and deep regard for the Constitution are well known to those of us who have worked with him and seen first-hand his commitment to basic principles. Above all, his independence, fairness and impartiality are the hallmarks of his career and his well-earned reputation.

The former Governor of Colorado, Democrat Bill Ritter, supports the confirmation of Judge Neil Gorsuch.

Eleven years ago, then-Senator Ken Salazar spoke very highly of his temperament, saying in 2006 that Judge Gorsuch met the "very high test" required of someone to be a "great judge" and that he has "demonstrated a dedication to fairness, impartiality, precedent and avoidance of judicial activism—from both the left and the right."

The Denver Post editorial board, which came out in support of Hillary Clinton, argued for Neil Gorsuch's nomination, saying: "A justice who does his best to interpret the Constitution or statute and apply the law of the land without prejudice could go far to restore faith in the highest court of the land."

Neal Katyal, former personnel in the Obama administration, stated his support for Neil Gorsuch: "I am confident Neil Gorsuch will live up to that promise" to "administer justice without respect to persons, and do equal right to the poor and to the rich."

The Washington Post editorial board, many others in Colorado's legal community, including the former cochair of the Host Committee of the Democratic National Convention in 2008, support the confirmation of Neil Gorsuch. This is not a partisan judicial appointment; this is a judge who has strong bipartisan support from the people who know him best.

I hope we can live up to that high, noble intention of our Constitution, the purpose of the Senate, to make sure we are confirming somebody to do a lifetime service for this country in a way that respects our Constitution and the people of this country.

I hope that over the next several days as we debate the nomination, we will move away from this cliff of changing two centuries' worth of precedent in this body and instead come together in a way that befits the best nature of our country.

Mr. President, I thank you for this opportunity to speak and come to the floor.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. PERDUE. Mr. President, I rise today to speak about one of the greatest honors and privileges that we enjoy here in the Senate. As outlined in article II, Section 2, of the Constitution, one of the real honors of serving here in the Senate is the opportunity to offer advice and consent for nominees to the U.S. Supreme Court.

This body has historically treated it in such a solemn manner that in over 230 years of our history, no nominee to the Supreme Court has ever been denied a seat through the use of a partisan filibuster. Unfortunately, right now, Members—colleagues from the other side of the aisle—are threatening that very precedent.

As I said on the floor earlier this year, President Donald Trump promised the American people he would nominate an unwavering supporter of the Constitution to fill the vacancy left by the late Justice Scalia. This President has kept his promise. He has nominated somebody who was actually confirmed here in the Senate not that long ago by a voice vote by Members who are still here in the Senate, many of them. This was a nomination to the Tenth Circuit, a role that this man, the nominee, filled with great honor and much distinction.

Judge Neil Gorsuch's record of service lives up to the highest standards for a Federal judge. His academic and legal records are impeccable. He has demonstrated a keen understanding and appreciation for the rule of law, and he spoke so articulately in hour after hour of interrogation, actually, in his confirmation hearing just last week. Most importantly, Judge Gorsuch has repeatedly demonstrated his commitment to the Constitution and to our founding principles of economic opportunity, fiscal responsibility, limited government, and most important, individual liberty.

His testimony last week before the Senate Judiciary Committee was masterful. It absolutely convinced me that he is the man for this job. Judge Gorsuch listened to questions, carefully responded thoughtfully, and he gave an indication into his own demeanor that he would use in the Supreme Court. Judge Gorsuch listened to questions carefully over and over. He illustrated the ability to show a balance of judgment, which is what we look for in a lifetime appointment like this. He made it abundantly clear that the role of the judicial branch is to interpret—not to make law but to interpret the law.

In my own individual meeting with Judge Gorsuch, these same qualities stood out. I was very impressed with his disarming nature and ability to talk about issues without necessarily showing bias of his own opinion. Because of all this, I know he will serve as a Justice in the mold of Justice Scalia, that of a balanced judiciary member.

I should also point out that this is not a partisan view point. Conservatives and liberals have come out in support of Judge Gorsuch's confirmation over and over through the past week since his nomination. Neal Katyal, who served as Acting Solicitor General under former President Obama, as a matter of fact, has described Judge Gorsuch as "an extraordinary judge and man."

The American Bar Association, which many members of this body hold as a gold standard for judicial nominees, actually gave Judge Gorsuch its highest rating—something they don't do very often. They did so unanimously, by the way.

Those who know Judge Gorsuch best, regardless of their political persuasion, have offered ample praise and abiding respect for this well-qualified nominee.

If confirmed, I have full faith that Judge Gorsuch's rulings will be just and rooted in the letter of the law.

This nomination and confirmation come at a time in the history of this Republic when it is absolutely crucial that we have a balanced jurist as the ninth member of the Supreme Court. Jonathan Turley, constitutional law professor at George Washington University right here in Washington, says that this past administration created a constitutional crisis the likes of which our country has never seen. Professor Turley talks about how a President has shown future Presidents a new precedent of how to run the government without Congress by blocking the Senate and actually creating the fourth arm of government—the regulators.

This is a time we have to have a jurist who will bring a balanced view for all Americans to be represented in the Supreme Court.

I am proud to have the opportunity to support this nominee. I urge my colleagues in the Senate to put partisan interest aside, to put the best interest of the country first, and to confirm Neil Gorsuch as the next Justice of the Supreme Court.

I take this as a huge privilege to speak out today, and I will speak more next week on the history of this nomination.

Thank you for the opportunity to speak.

I yield my time.

THE PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, there has been a long conversation about a Supreme Court Justice. Quite frankly, there should be a long conversation. It is an incredibly important role of the Senate for advice and con-

sent. We are talking about a Supreme Court Justice as someone who serves on the Court for life, so it has to be right.

A long conversation about Neil Gorsuch is coming to a head. In the next week, he will come to this floor. He will face final debate, and the very long confirmation process will end with him joining the Supreme Court as the ninth Justice. When he is added on as an Associate Justice, it won't have been a short journey. He has met with every single Senator face to face. He has made all the time available that they wanted to have for face-to-face questions and to be able to go through those issues personally. He has been in very long hearings. He sat down hour after hour, multiple days, answering questions from Senators in the Judiciary Committee, then a vote from the Judiciary Committee, and then coming to this floor. There has been research in his background in every case. Everything he has ever written and every speech he has ever given has been examined overwhelmingly. And at the end of that, he has been found to be a very serious member of the judiciary.

In this body in 2006, he was put on the Tenth Circuit, a circuit that Oklahoma happens to be in. There was a unanimous vote in the Senate in 2006 for him to join the Tenth Circuit. He was seen as a consistent, solid, mainstream, fair judge. That means Senator Joe Biden voted for him. Hillary Clinton voted for him. **CHUCK SCHUMER** voted for him. Barack Obama voted for him in 2006.

After going through all of his background leading up to this point, since that time, what has happened? Did he leave the mainstream during that time period after he was overwhelmingly voted here, unanimously out of the Senate, to be on the Tenth Circuit? Well, since that time, he has been a part of 2,700 cases in the last decade. Of those 2,700 cases, 97 percent of them were unanimous. In 99 percent of the cases, he was in the majority in those opinions. Only 1 percent of the time he was not in the majority of the decision.

So you may ask, who is the Tenth Circuit Court that he is working with, this large group of judges who are in that court? Let me give you the basics of it. Of the Tenth Circuit judges there right now, whom he is serving with, with whom he was in the majority 99 percent of the time, five of the other judges were Obama appointees, five of them were George W. Bush appointees, three of them were Clinton appointees, three of them were Reagan appointees, 1 was Bush 41, and 2 of them were from President Carter. That is the group he was voting with in the majority 99 percent of the time.

He was seen by this Senate in 2006 to be a solid, mainstream jurist. Since that time period, he has voted with them 99 percent of the time in a very diverse Tenth Circuit.

CRS, in their background research with him, said that Judge Gorsuch's

opinions had the fewest number of dissents of anyone in the Tenth Circuit. In other words, when he wrote the opinion, his colleagues disagreed with him the fewest number of times of anyone on the Tenth Circuit.

He is a solid jurist, respected around the country, and one who deserves not only an intense investigation but I believe deserves to be put on the Supreme Court of the United States. I look forward to voting for him next week.

In the process, I hope, as we support him, that we will also step up and do a process that has been consistent in this country for the last 230 years of how we process through judges; that is, we have an up-or-down vote. They are not blocked by a cloture vote to try to keep them from getting to a final vote. The judges here get an up-or-down vote. That is the way we have done it.

Of the eight Justices who are sitting on the bench right now, only one of them even had a cloture vote at all, and that one wasn't even close. It was 72 to 25, and that was Justice Alito.

Just to walk through the brief history of some of the recent judges and some of the things that have happened and how it is absurd that we would even be discussing a filibuster of a Supreme Court Justice, Justice Kagan was approved by a vote of 63 to 37. There was bipartisan support coming out of the committee. I can assure you, there wasn't bipartisan support for policy positions.

For some reason, Judge Gorsuch is being accused of being partisan or political or somehow connected to the President, so that would disqualify him.

Ironically, Justice Kagan was a member of the White House staff before she was nominated to go onto the Court. That was not considered disqualifying when it was Justice Kagan and the Republicans were in the minority looking at it. They considered that everyone should be looked at fairly based on qualifications, when she was coming directly from the White House staff onto the Supreme Court.

Justice Sotomayor was approved by a vote of 68 to 31—again, bipartisan support even in committee.

Clarence Thomas, one of the most controversial nominees in this last century, came out of the committee with a divided committee. After the vote failed, the committee then voted to send his nomination to the floor without a recommendation. He then passed on a floor vote of 52 to 48. There was never a request for a cloture vote. No one filibustered him—not one person.

If Clarence Thomas would have had a filibuster threat facing him, he wouldn't be on the Court today. He has been an excellent jurist on the Supreme Court, but he came out during a time when there weren't these idle threats.

It is even interesting that Robert Bork, who is currently not on the Court—his vote failed 42 to 58, but that was a failed final vote. Robert Bork did

not face a filibuster threat. He was brought to a final up-or-down vote.

I could go on and on to walk through the judges and Justices and how they have gone through the process, but there has been a simple procedure: Is this person qualified?

The American Bar Association, multiple entities, huge bipartisan support around the country—there is no question he is qualified. There is no question he has been a great jurist. There is no question he has been an excellent writer.

Now it is a question of, Will the Senate follow through on the procedures that we have followed through on for two centuries? Give judges an up-or-down vote, and the majority and the minority both respect the process of what it means to be a part of article III leaders in the Justice Department.

This is the way that this works in the days ahead; this is the way it has worked in the days past. We need to be able to resolve it now.

I look forward to voting up or down and getting that vote for Judge Gorsuch. I look forward to his joining the Court to be that ninth Justice and to the Court being able to get back to their business. There are a few issues that are unresolved from the fall. There are not many cases that were divided 4 to 4, but a few. It is time to get those resolved and be able to add this ninth Justice.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I certainly agree with the comments just made by our friend from Oklahoma in looking back at the history of the Court. The 200 years of giving judges a vote really is an important thing for us to understand, as hopefully enough Members of the Senate decide between now and sometime next week that the up-or-down vote—where they get to vote however they want to—is totally appropriate.

I would like to speak about one other topic that we are dealing with this week. I was here yesterday to talk about Judge Gorsuch. I will likely be back again before this debate is over because it is critically important that he be confirmed.

Mr. President, I want to speak for just a minute about what we are also doing this week under the Congressional Review Act. One of the reasons the Court matters is that the Court gets to decide on occasion whether an agency has the legal ability to make a rule, but just because they may have the legal ability to make a rule doesn't mean they should make a rule that stands if the Congress doesn't agree.

The Congressional Review Act, under the late rulemaking of President Obama, has had a real opportunity to work for, I would say, the first time, but the truth is, it has worked one other time in 2001. In the 25-or-so-year history of the Congressional Review Act until the last few days, the last few

weeks, it has been utilized only because it is really only practically available to the Senate and to the House if there are midnight rules, rules that come up at the last minute.

As of today, the Senate has already passed 11 resolutions that have disapproved those late rules that came in the final days of President Obama's administration. By the time we finish this process, I think we will be toward a total of maybe 15 rules that would have had a real impact on our economy, that would have had a real impact on job creation, that would have had a real impact on families. Those rules are not going to happen because of the Congressional Review Act.

I have been an opponent of many of these rules and many of the regulations we have seen over the last 8 years, but they have often been able to become law anyway because the Congress, frankly, couldn't do anything about it.

TITLE X PROGRAM

In particular, I would like to commend Senator JONI ERNST for her work on the resolution of disapproval we expect to consider tomorrow. Senator ERNST's resolution would simply restore the ability of States to set their own criteria for grant recipients under the title X program.

I would like to remind my colleagues that this rule was issued on December 19, 2016. It took effect January 18, 2017, 2 days before the end of President Obama's administration. So for 7 years and 363 days, the Obama administration didn't need this rule, but they issued it on the way out the door.

Overtaking this rule would not reduce a single dollar of funding that is available under title X. Again, all we are doing is simply giving back to the States the flexibility they had until the last 48 hours of the Obama administration to determine which health providers were in the best position to provide the particular set of healthcare services before the rule took effect.

This rule is another example of overreach. This is another example of out-of-control regulators. I certainly am pleased to see Senator ERNST bring it to the floor.

The determination of how the rules should be made and who should make them and who should do something about it is something that this Congress, in the next few weeks, has to take a stronger stand on.

I hope we find a way where we have to vote on every rule that has any significant economic impact. That bill has passed the House of Representatives already.

I see the Senator from Wyoming here, so I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I would like to add my voice to that of the Senator from Missouri. I thank him for his leadership and for his excellent work on the matters that he has been addressing.

NOMINATION OF NEIL GORSUCH

Mr. President, I am here to address the issue, as I have done before and will again, of the nomination of Judge Neil Gorsuch to be a Justice of the U.S. Supreme Court. America needs judges who can follow the law, who have the highest ethical standards, and who value the independence of our courts. That is the description of Neil Gorsuch. That is him in a nutshell. We saw it throughout his career, and we saw it again in his confirmation hearing last week.

Democrats on the committee asked him to talk about issues that are going to be coming up before the Supreme Court. Well, Judge Gorsuch—we know what he did. He followed the rules, the ethics rules. These are the rules that say that judges and nominees should not answer those kinds of questions.

Following the rules is exactly what he should have done, and it is exactly what other nominees that both Republican and Democratic Presidents have placed on the Court have done in the past.

It is what Ruth Bader Ginsburg did at her confirmation hearing in 1993. She said that a "judge sworn to decide impartially can offer no forecasts, no hints." She said that this would "display disdain for the entire judicial process." She was confirmed.

That is exactly what Judge Gorsuch said. That is the Ginsburg standard, and every nominee since then has followed that standard.

Democrats on the Judiciary Committee also tried last week to criticize Judge Gorsuch for some of his opinions that they didn't like. They suggested that the Court should have ignored the law—ignored the law and sided with "the little guy" in these cases.

Judge Gorsuch was quick to point out that all judges are absolutely not supposed to consider who they think is sympathetic. They are to rule based on the law.

Federal judges actually swear an oath to "administer justice without respect to persons, and do equal right to the poor and to the rich."

It is interesting because the minority leader, Senator SCHUMER, himself has spoken about how important it is for a judge to be impartial. In 2009, at the confirmation hearing for Justice Sonia Sotomayor, he praised the way that she put the "rule of law above everything else." He said that she did this even when it led to rulings that "go against so-called sympathetic litigants." That was 2009.

Fast forward to 2017. It is the identical standard that Judge Gorsuch has followed. He pointed out that it is his job to apply the law, and writing the laws is the job of the legislative branch of government.

We are not here selecting the 101st Senator. This is not about who ought to be another Senator. This is about who should be on the Supreme Court. We are selecting a Justice for the most important Court of the land.

Nearly everyone who has looked at this nominee's record, who has watched his confirmation hearing agrees that he would be an excellent Justice. There was one lawyer who wrote an op-ed in *The Washington Post* on March 8. He is a board member of the liberal American Constitution Society. He wrote that "there is no principled reason" to vote against Judge Gorsuch. A *Denver Post* editorial last week said Judge Gorsuch would make "a marvelous addition to the Supreme Court." The American Bar Association has given him its highest possible rating. He was even introduced at his confirmation hearing last week by a former top lawyer for the Obama administration. Neal Katyal is a Democrat. He was the Acting Solicitor General of the United States for President Obama. He has called Judge Gorsuch "one of the most thoughtful and brilliant judges to have served our nation over the last century."

I think any Democrat who watched the confirmation hearings and looked at the nominee's record will decide it is an easy decision to confirm him.

If there is a Democrat who reaches the opposite conclusion, I say: Come to this floor. Come to the floor of the U.S. Senate. Explain why you think our judges should go into a case favoring one side or another. If you think a judge should make promises about how he will rule just to win the vote of a Senator, go ahead. Come to the floor. Make your case. If you think that a Justice of the Supreme Court should ignore the law and rule not based on the law but by that judge's own preferences, please come to the floor and say so. I don't think that is what the American people want.

The American people want judges who are smart, who are principled, who are fair, and who know that their job is to follow the law, not write the law. The American people know that Neil Gorsuch is exactly that kind of judge, and that is the kind of judge who we should have on the Supreme Court and on every court of the land.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to complete my remarks today.

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

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Wyoming for the wonderful remarks he has made. They are right on point.

Last week's Judiciary Committee hearing on Judge Neil Gorsuch's Supreme Court nomination made two things abundantly clear. The first is that Judge Neil Gorsuch is a superb, highly qualified nominee. Second, with the possibility of the first partisan filibuster in the history of a Supreme Court nominee, I have come to the conclusion that some Democrats would do

almost anything to keep us from having an impartial, independent judiciary.

As I explained at the start of the hearing last week, qualifications for judicial service include both legal experience and judicial philosophy. Legal experience looks at the nominee's past accomplishments in the law, while judicial philosophy anticipates the nominee's future judicial service.

Judge Gorsuch's legal experience is among the most impressive that I have seen in my 40 years on the Judiciary Committee. He is truly an impressive man. This is no doubt why the American Bar Association easily and unanimously gave Judge Gorsuch its highest "well qualified" rating, the highest rating it can give. I certainly have had my differences with the ABA, because at times they appear to let political or ideological considerations influence their rating. I mention their rating now because my Democrat colleagues, including Senators LEAHY and SCHUMER, have called the ABA's rating "the gold standard" for evaluating judicial nominees.

The ABA testified about their rating at last week's hearing, explaining that they sought input from more than 5,000 people throughout the legal world who would have personal knowledge about Judge Gorsuch. That is about as broad a group as I have ever heard of. They assembled 40 scholars and nationally recognized Supreme Court practitioners to review his judicial opinions, other writings, and speeches. The ABA's 1,000-page report concluded that Judge Gorsuch meets the "very high standards of integrity, professional competence, and judicial temperament."

Editorial boards across America took notice as Judge Gorsuch demonstrated such qualities to everyone.

The *Denver Post* said that Judge Gorsuch "possesses the fairness, independence, and open-mindedness necessary to make him a marvelous addition to the Supreme Court."

The *Detroit News* said that Judge Gorsuch "is proving himself an even tempered, deeply knowledgeable nominee who should be confirmed by the Senate."

The *Chicago Tribune* said that Judge Gorsuch's critics "suggest that they fear Gorsuch won't follow the law, but the opposite is more true. They fear he will. Gorsuch should be confirmed."

The second and more important qualification for judicial service is the nominee's judicial philosophy or his understanding of the power and proper role of judges in our system of government. This is ground zero in the conflict over the appointment of judges. America's Founders were clear about their design for the judicial branch as part of the system of government they established. Central in this design is the separation of powers. Government power is divided among three branches and is supposed to stay that way. As a result, what the legislature does in

making law is designed to be different than what the judiciary does in interpreting and applying that law. This design for government is necessary for the liberty that we all enjoy. Change the design and sacrifice the liberty it makes possible.

Specifically for our purpose today, this design provides the job description for judges. They interpret and apply written laws such as statutes and the Constitution to decide cases, and they must do so impartially, deliberately removing their own views, preferences, or agendas from the judicial equation. That is exactly the kind of Justice that Neil Gorsuch will be and has been. Professor Jonathan Turley, a well-known constitutional law expert, told the Judiciary Committee that, like Justice Scalia, Judge Gorsuch has a well-defined judicial philosophy with a record of well-considered writings both as a judge and as an author. In short, concluded Professor Turley, "we have a very good idea of who Judge Gorsuch is and the type of Justice he will be." He will be an impartial Justice who takes the law as he finds it, applies it objectively to decide cases, and leaves the decision about changing the law to the people and their elected representatives.

This brings me to the second thing that the Judiciary Committee hearing revealed last week. I said at the start of the hearing that the confirmation process reveals the kind of judge that Senators want to see appointed. And it certainly did. Judge Gorsuch's opponents seem determined to oppose an impartial and independent judiciary. In fact, it looks to me like they want the opposite—a judiciary that is partial and dependent. They want judges to decide cases with deliberate regard to the parties and with determined attention to the political interests that their decisions will promote.

This is the 14th Supreme Court confirmation process in which I have participated, and I cannot remember Senators opposing more strongly the basic notion that judges must impartially apply the law.

It is important to point out, of course, that Democrats' objection to judicial independence has, to be charitable, not always been consistent. In 2009, for example, Senator SCHUMER introduced Justice Sonya Sotomayor to the Judiciary Committee for her confirmation hearing. Senator SCHUMER was a distinguished member of the committee at the time. He praised Justice Sotomayor for, as he described it, carefully applying the law even when it meant ruling against "so-called sympathetic litigants." That was then. This is now. Last week, Democrats turned the Schumer standard on its head, cherry-picking a few of Judge Gorsuch's thousands of cases to criticize him for ruling against sympathetic litigants.

Every Federal judge takes an oath to administer justice without respect to persons and to discharge his judicial

duties impartially. The ABA's Model Code of Judicial Conduct spells out that this includes a duty not to make commitments about issues that may come up in future cases.

When Justice Ruth Bader Ginsburg appeared before the Judiciary Committee in 1993, she took a firm stand. She said: "A judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process."

Every Supreme Court nominee of either party has taken this same position. To me, this simply shows how much these nominees, most of whom are sitting judges already, care about their impartiality and the fairness it provides to litigants.

I think it would baffle our fellow citizens to suggest that judges should, in effect, prejudge cases before they even come up or publicly take sides on issues that could later require their judicial decision. Our constituents would think it crazy to say that judges should not keep an open mind or that judges need not be impartial.

Today, however, Democrats say they will oppose Judge Gorsuch's Supreme Court nomination unless he spells out those views, unless he provides those same forecasts and previews. In other words, Democrats consider the impartiality they applauded in Justice Ginsburg to be a liability in Judge Gorsuch. To most people, fairness, openmindedness, and impartiality are qualities we need in our judges. To some Democrats, they are obstacles to be overcome, I might say, on the way to a fully politicized judiciary. What do my Democratic colleagues have to fear from judges who are truly impartial? I mean, I don't see where the argument really is.

Another tactic last week was to talk about people who had not been nominated and who were not even in the room. Committee Democrats, for example, talked about President Trump and a few of his advisers more than 80 times over just 3 days. They also decried the efforts of grassroots activists working on behalf of Judge Gorsuch's nomination. It mattered not that the nominee had no connection whatsoever with those particular efforts. No, Democrats warned of the "extreme special interest groups" that supposedly advised the President about filling this Supreme Court vacancy. They talked about so-called "dark money" contributed to such groups by undisclosed donors.

I would not go so far as to directly accuse anyone of hypocrisy or of changing their tune based on ideology or political party. I would not do that. I would observe, however, that one group invited by Democrats to testify against the Gorsuch nomination was particularly vocal about condemning "big money corrupting our politics." It turns out that this group was cited by the Center for Public Integrity in Jan-

uary as an opponent of dark money even though the group itself accepts shadowy funds and refuses to fully disclose its own donors.

Next week, the Judiciary Committee will report the Gorsuch nomination to the Senate floor, where the same tactics will be in full view. Democrats are already claiming that the threshold for confirming Supreme Court nominees is 60 votes. Where did they get that from? They may wish this were the rule, at least for Republican nominees, but they know that is not true. They know it.

Democrats have been playing this game for years, embracing one standard when it suits them, only to do an about-face later. It may be just a coincidence, but the flip-flopping follows an eerily similar pattern to election cycles when different parties control the White House. But, like I said, that may be just a coincidence.

What I do know is that Senator SCHUMER voted 25 times to filibuster judicial nominees of President George W. Bush. Then, when nomination filibusters had declined under President Obama, he voted to abolish them. Now, with a Republican in the White House, he is back on the filibuster train. He was against judicial filibusters before he was for them before he was against them.

Why not have a vigorous debate followed by an up-or-down vote? The 1987 nomination of Robert Bork was controversial, yet there was no cloture vote, even though he was defeated. The 1991 nomination of Clarence Thomas was controversial, yet there was no cloture vote, even though he was confirmed.

Republicans have never even attempted a partisan filibuster of a Supreme Court nominee. Most recently, then-Majority Leader Harry Reid said in 2010 that he would file cloture on the Supreme Court nomination of Elena Kagan. Republican leaders, including our former colleague Senator Jeff Sessions, told him that filing cloture would be completely unnecessary.

The truth is that no Supreme Court nominee has ever been defeated by a partisan filibuster. The only reason Democrats are choosing to push us in that direction is that their leftwing groups have told them to do so.

Judge Gorsuch's approach to judging empowers the American people and their elected representatives. It does so by taking seriously what they do. He takes the words of the statutes they enact and the Constitution they established as having substance and actually meaning what they say. That is the respect that our system of separated branches requires that each give the other.

Last week's hearing confirmed for all to see that Judge Gorsuch has the legal experience and judicial philosophy and temperament to make him fully qualified to serve on the Supreme Court. It also exposed the fact that some of my colleagues see an impartial and inde-

pendent judiciary as a threat rather than as an indispensable support for our liberty.

I have been kind of shocked at the turnaround by some of our Democratic colleagues—not all of them but some of them—that how, if it is their judgeship nominee, these rules do not apply that they are now trying to apply to Judge Gorsuch.

I have seen a lot of nominees in my day and an awful lot of nominees to the Supreme Court. I have never seen one any better than Judge Neil Gorsuch. He is totally prepared for the job. He is an outstanding lawyer with great experience. He is a brilliant judge, someone who will enhance the Supreme Court and not deteriorate it, who deserves to be on the Supreme Court. Thank goodness the President has seen fit to put him there.

I hope our colleagues will think it through because we should not be politicizing these judgeships like has been done recently. Frankly, we should never politicize the Supreme Court nomination process. It is not just because the President is a Republican; it is because that is the way I have always approached it. I think that is the way most everybody in this body has always approached it.

I hope people will think it through and vote for Neil Gorsuch. He deserves their vote. He will be a great Justice on the Supreme Court. He is going to make it one way or the other, and I hope my colleagues on the other side realize that and will dispense with some of this garbage that has been used against Judge Gorsuch.

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. CARDIN. 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.

Mr. CARDIN. Mr. President, I take to the floor to urge my colleagues to vote against two of the resolutions that are on the floor, H.J. Res. 66 and H.J. Res. 67—both under the Congressional Review Act—which would not allow two regulations under the Obama administration to go forward that would allow for increased retirement security for American workers and families.

Throughout my time in office, I have fought hard for measures that increase the retirement security for American workers and families. One of the most prominent examples is the private retirement improvements that I championed with my friend Senator PORTMAN when we were both in the House of Representatives.

More recently, Senator PORTMAN and I have joined together to support other changes to our pension laws that enhance retirement security. For instance, the Cardin-Portman Church

Plan Clarification Act, which became law in 2015, clarified the application of certain tax laws and regulations to the unique structures of church pension plans. The Cardin-Portman Retirement Security Preservation Act, which was reported out of the Finance Committee unanimously last September, amends nondiscrimination regulations to protect older workers in pension plans that have been closed or frozen. I hope the bill will be taken up again in this Congress.

I mention these efforts over the years with Senator PORTMAN because I think they show two things: First, they show that ensuring all Americans can retire with dignity is an ongoing effort. We need to work continually with workers, retirees, and other stakeholders to make sure retirement security is achievable, especially as our economy changes. Second, they show that this ongoing work has been and hopefully will continue to be strongly bipartisan. That is why I need to speak in opposition to H.J. Res. 66 and H.J. Res. 67. These resolutions are an unnecessary step backward in our ongoing retirement security work.

As my colleagues are aware, H.J. Res. 66 and H.J. Res. 67 eliminate the ERISA safe harbor that was created by the Department of Labor for IRA plans that are administered by State and local governments. We are considering the local government resolution today, but I want to stress the importance of both types of plans.

The provisions of this safe harbor are very similar to an existing safe harbor that is already in ERISA that allows employers to establish payroll deductions to IRAs. So long as the State- and municipal-run plans meet the requirements of the safe harbor, the businesses—usually small businesses—that offer State-run retirement plans to their workers will not inadvertently be subject to liability under Federal law.

The Department of Labor rules were meant to provide legal certainty to the increasing number of States that have decided, in the absence of any action by the Congress, to address the retirement coverage gap in their communities. Maryland is one of those States. Our State is active. Last year, Republican Governor Larry Hogan signed legislation creating a Maryland-run automatic IRA program. The legislation was backed by the Democratic leaders in the general assembly. In fact, it passed unanimously out of our Senate.

The reason for this bipartisanship was, in part, in recognition of the stakes. At the time the law went into effect, which was last July, an estimated 1 million Marylanders worked for businesses that did not offer retirement savings plans. Without the rule, the businesses that choose to use the Maryland-run option to provide retirement plans for their workers may face legal liability. At the very least, the repeal of the safe harbor will slow the entire implementation process.

I understand that my colleagues who oppose the Department of Labor rule

want to be sure that strong ERISA protections apply to retirees; however, under current law, most IRAs do not have ERISA protection. For these IRAs, the only chance for any kind of consumer protection is for States to do it. H.J. Res. 66 and H.J. Res. 67 are seeking to undo that.

I am also confused by claims that the adoption of these resolutions would necessarily lead to the complete ERISA preemption of State programs. The Department of Labor does not take that position. To claim that these resolutions alone would have such a broad effect on the interaction of ERISA with State law is troubling, to say the least.

Let me be clear. I would prefer Federal action in this space. Retirement security is one of a seemingly dwindling number of bipartisan issues we can tackle in Congress, and the concerns raised by many of the stakeholders I have worked with in the past on retirement reform are understandable. I am concerned that a lack of Federal action will lead to a State-level patchwork that will be hard for employers and more mobile workers to navigate. I would much rather build on the efforts of the States to create a uniform Federal system under which employers would adopt high-quality, well-managed plans. I am also concerned that providing a State-run option could diminish robust competition with the private sector.

The point of these State-run programs is to decrease our coverage gap. However, we must not also create a race to the bottom whereby employers opt for a one-size-fits-all minimum and do not consider other plans that may be better tailored to their workforces. This is not, in my view, the case in Maryland.

The answer to these problems is not H.J. Res. 66 or H.J. Res. 67; it is for Congress to continue its ongoing bipartisan work on retirement security, not to undermine what our States have chosen to do to help our mutual constituents. This is federalism the way federalism is supposed to work. The States adopt policies and hopefully give us some guidance as to how we can develop uniform national policies.

I am, frankly, surprised that my Republican colleagues have chosen to take up these resolutions. It is hard to see what the disapproval of the Department of Labor rules achieves other than notching the repeal of another Obama-era rule, but at what cost?

To me, the resolutions take a fairly clear, anti-States'-rights stance, all to create potential liability for small employers who will take advantage of the new State laws. Essentially, supporting this resolution means sowing unnecessary legal confusion in an area in which States have already acted in a bipartisan way. We can do better. We can work together on this issue. Instead of focusing on haphazard repeal measures, I am confident that we can produce thoughtful, substantive, bipartisan solutions.

I urge my colleagues to oppose these resolutions. As I have in the past, I stand ready to work with them to ensure all Americans can save with dignity for their financially secure retirement.

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

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

REMEMBERING ED GREELEGS

Mr. DURBIN. Mr. President, allow me to take a moment of the Senate's time to say thank you and farewell to an exceptional person.

Ed Greelegs was my chief of staff for 17 years, and he was a wise and trusted friend. I was not unique in that regard. Ed had thousands of friends. I used to marvel while walking through the Capitol with Ed Greelegs because he knew everybody, and everybody knew him—not just the Members of Congress and their staff but cafeteria workers, carpenters, Capitol Police officers, and certainly Senators, Congressmen, and their staffs. He was a beloved member of the Senate community, and what a smart fellow he was.

During my first 10 years in the Senate, when Ed was my chief of staff, he was an unfailing source of wise and thoughtful advice. Some people are drawn to Congress because of what they think are the perks and power that come with this job. That is not what attracted Ed Greelegs.

For Ed, being a good public servant was always a privilege. He avoided the spotlight. He was there to help people and to help move America closer to that more perfect Union our Founders dreamed of.

Fifteen years ago, Ed was diagnosed with early onset Parkinson's. He and his wife Susan faced that formidable challenge the same way they faced everything: together, with love, determination, courage, and a good sense of humor.

Sadly, yesterday, Ed's battle with Parkinson's ended, and he passed away at the age of 66.

Parkinson's disease is a bitter adversary. Over the years, it took away Ed's sure-footedness. It nearly killed him twice. In the end, it robbed him of many memories. I can recall speaking to him a few months back, and Susan had warned me that he didn't have much of a memory, she said, unless you want to talk about politics. So I called him, and we talked about politics—even the politics of the day—and Ed was spot on. He always was. But regardless of the loss of memory, it never took away Ed's dignity, his kindness, or his respect for others.

Ed Greelegs worked for so many Members of Congress from Illinois that I think he became an honorary son of

our State. He grew up in Washington, DC, in the suburb of Wheaton, MD, and graduated from the University of Maryland.

He came to the Capitol as an intern in 1970. Before he joined my staff, he worked for Congressman Marty Russo of Illinois, Congressman Bob Eckhart of Texas on the House Commerce Committee, Congressman Sam Gejdenson of Connecticut, and finally back to Congressman Marty Russo.

He also worked briefly for the Consumer Federation of America and for Fannie Mae.

In 1990 I persuaded him to come to work for me as my chief of staff in the House. Six years later, when I went to run for the Senate, he was right by my side, and he was there for me 8 years later when I became whip.

His quiet, wry sense of humor helped to lighten the mood when things became tense, and his profound compassion and decency reminded all of us of why we were really there.

There were a couple of things that Ed loved more than public service, and one was books. Ed's desk and his bedside were always surrounded by mountains of books. More than reading, Ed loved his family, especially his dear wife Susan and his stepchildren, Andrew and Amanda.

I have a thousand Ed Greelegs stories, but I am going to close with my favorite. The year was 2002. I was on a codel with then-Majority Leader Tom Daschle to Afghanistan with a handful of Senators. We were the first group of Senators to land in Afghanistan after the war broke out in daylight. The security was incredible. This trip to Afghanistan was the first since the fall of the Taliban. No one knew who was friend or foe on the ground. So when we landed at Bagram Airfield in Kabul, it was really tense. As the back end of the plane ramp went down on to the runway and we were brought off, we were surrounded by armored personnel carriers and men holding rifles. These armored personnel carriers were as far as the eye could see, and the armed troops as well.

As I came down the ramp, a man in civilian clothes walked up to me and said: Are you Senator DURBIN?

I said: Yes, I am.

He said: Well, I am a personal friend of Ed Greelegs.

I couldn't believe it. In the middle of a war zone, here was another friend of Ed Greelegs.

On behalf of friends of Ed everywhere, I want to say: Thank you, my friend. You made this Congress and this country better with your caring and dedication. We will all miss you.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, let me thank my friend from Illinois for his very thoughtful and warm remarks about somebody who we all admired very much, Ed Greelegs.

I remember so many times talking to him about the rights of seniors, and a lot of us who thought we knew something about the subject didn't know half of what Ed did. This was a guy with a really razor-sharp mind, but he had an even bigger heart, and particularly a heart for people without clout and power. I don't think it was an accident that he gravitated to the senior Senator from Illinois, I might add as well.

So I thank my friend for his very gracious remarks about somebody we all admired very much.

Mr. President, I am here this afternoon because from the people who brought us TrumpCare, which was so favorable to the fortunate few and the special interests, now comes legislation that is going to make it harder for working people and working families to save for their own retirement. To kind of put that in context, whenever we have a debate about retirement, we always hear people say: You know, you just ought to realize that Social Security, this earned benefit—an earned benefit for Americans—you have to realize it is not going to cover everything. You have to save privately. You have to save for your retirement. And now, what we are seeing is the powerful special interests—the people with deep pockets and great political influence—are talking about restricting the chance for those typical working families to do the very thing that those people usually say is the solution. They say: No, we can't have government programs; you have to save privately for your retirement. And now come along those very powerful special interests, and they want to talk about restricting the ability of working families to save privately.

So we are now debating the first of two resolutions that would put a huge dark cloud over the new programs with individual retirement accounts, called auto-IRA programs, that States like mine and a handful of cities are seeking to build.

Right now, immediately, it is the locally based programs that are trying to promote private savings, giving the working-class family the chance to do it, and they are the ones who could be undermined. Of course, depending on what happens around here, the State programs could be next.

So at this time in American history, when we are facing a very large challenge with respect to savings, when a little over half of the workers approaching retirement age have nothing—zero—saved in retirement accounts such as individual retirement accounts or 401(k) plans, these two resolutions amount to a game plan that would take the savings crisis, which is already bad, and make it worse.

Around 55 million Americans don't have access to a retirement plan at work. More often than not, it is the employees of small- and medium-sized businesses who don't have that job benefit, and it is no fault of their own. In

my view, this shouldn't even be a partisan question. There ought to be bipartisan interests in helping these workers find new opportunities to save. It ought to be easier than it is today.

I see my friend and colleague from the Finance Committee in the Chair, and as he knows, we have had countless committee hearings in the Finance Committee. We have been part of multiple floor debates when I have heard Members on both sides of the aisle talk about the importance of private savings. Yet here we are in the Senate, and yet we are looking at an effort on the part of the majority at this point that wants to ram through resolutions that would make it harder to save, not easier.

So juxtapose what is going on today and then think about all of the committee hearings in the Finance Committee, in the HELP Committee, where we hear people talk about private savings. We ought to make it easier; we ought to have smarter policies. Today the U.S. Senate is looking at making it harder for working families to save.

Here is a little bit of background about this and what it means to my home State of Oregon, and we are looking at winning the NCAA championship here in a few days, so there are a lot of things we are talking about in Oregon right now. But I wanted to especially come and talk about another area where we are leading right now; that is, trying fresh approaches to retirement savings.

Oregonians want as a State to help close the gap for the 55 million Americans without an employer-sponsored plan. After a lot of study and careful planning, my home State of Oregon is one of a handful of States that have passed what has come to be known as an auto-IRA. The actual name of the program is OregonSaves, and it is set to launch this summer.

What it means—and the highlight of it is this is a voluntary program—is we are creating a new set of opportunities for workers to actually save. What it means in my State is if you are a worker at one of these businesses, when you get a job, you will get a retirement account, and you will be able to start saving.

Now, I want to emphasize that it is not mandatory. Any worker who wants to opt out could do so, but it is designed to be simple and easy to use for everybody involved.

I wish to describe for a moment some of my conversations with Oregonians and workers who have been part of these auto IRAs. They come up at townhall meetings in every county of my State—I have had a little over 800 now—and we have discussed savings. They come up often, and they say: I have been hearing about these new IRAs, and I am automatically enrolled in one.

Then they say: You know, if they hadn't automatically enrolled me in it, I probably wouldn't have done it because there is always an expense in our

household, there is always something we think we probably should do, and we would say to ourselves: We had better do that now, and we can come back and talk about saving later.

Those employees have come up and said: We probably wouldn't have done it without this automatic enrollment. But, Ron, I am so glad that we have it because I have seen that this is really beneficial, and it in effect has persuaded me that I have to take a very disciplined approach. I am glad this is automatic, and I especially like the fact that I have the last word on the subject. In other words, if I feel for one reason or another I can't do this automatic savings, there would be an opportunity for me to opt out.

It is automatic, and it provides this path for people to start saving. It is cost-effective. It is straightforward for employers. It eliminates a lot of red-tape and administrative hassle. Most importantly, it gives the worker the last word—the right to opt out of this.

The Trump administration says it wants to cut redtape that burdens business. In my view, this legislation does the opposite. It makes it harder for small businesses to provide retirement savings programs for their workers.

One after the other, Oregon employers are raving about the opportunity the program represents for them, especially when it comes to recruiting and retaining top-notch employees and helping those workers build a nest egg. I just gave a little bit of empirical evidence from these community meetings I hold where workers say they particularly like what this does. It is almost like a little bit of a nudge to save and build a nest egg.

Judi Randall, the finance director of an affordable housing provider in Roseburg, OR, says it would make a big difference for a rural nonprofit organization like hers to have OregonSaves available to help employees secure their retirement.

Joy Andersen, another Oregon leader, is the administrator at the Asher Community Health Center in Fossil, OR. I had my first community meeting in this small town of about 500. Joy has talked about how important it is to her to have an attractive retirement plan to recruit employees to come work in Fossil in eastern Oregon.

Kevin Max runs Statehood Media in Bend, a small company with big aspirations. He notes that there is no better State in the country than Oregon when it comes to employee recruitment. He says that OregonSaves gives companies like his another leg up with an even better package of benefits.

I believe it defies logic that in light of all of these positive returns from employers and from workers, that the Congress would want to stamp out a program like OregonSaves which has so much potential, but the resolution going after State initiatives—and there are two—would pose that kind of threat.

My view is that these are not easy programs for States or cities to set up.

There are legal issues that date back decades that have to be worked through. There is a lot of heavy lifting at the Labor Department to get the legal roadblocks out of the way. If these resolutions pass, it would wipe out months and months of work that has gone into making this kind of State- and local-based partnership possible.

This particular issue ought to be a no-brainer. Saving in the private economy is the right thing, as I have said, for a host of reasons. People scrimping and saving to set aside money for retirement is the key to a healthy retirement policy so everybody is in a position to have a dignified retirement rather than stretching every penny they have, relying just on Social Security, family members, and food banks to make ends meet. I believe our people want the opportunity to save, and they like the idea of this automatic IRA because it is fair to workers and fair to employers.

My view is that the Senate ought to stand up and recognize that by voting against these ill-advised resolutions, this is a chance to support the interests of working people who would like to save in the private economy, ahead of special interests. I hope the Senate will do the right thing for those hard-working people and their families and vote these resolutions down.

Mr. President, I yield the floor.

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. 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.

NOMINATION OF NEIL GORSUCH

Mr. TOOMEY. Mr. President, I rise today to speak in strong support of the nomination of Judge Neil Gorsuch as Associate Justice of the U.S. Supreme Court.

There has been a lot of debate about Judge Gorsuch and his candidacy for the Supreme Court. Let me first review some of the things that really have not been debated. One is the intellect and the education and the knowledge of this man. It is really extraordinary.

Judge Gorsuch attended Columbia University as an undergrad, Harvard Law School, and he went on to Oxford for postgraduate work.

Nobody disputes the intellect, the education, and the knowledge that this man brings to this job. Nobody disputes his experience and qualifications, either. How could they? He has spent 10 years on the Tenth Circuit Court of Appeals, the second highest level of courts in our American system. There is no question that Neil Gorsuch has the experience and the qualifications.

Character and temperament are extremely important—actually, essential—characteristics for a judge or a

Justice. I have heard nobody criticize the character or temperament of Judge Gorsuch, whatsoever. In fact, he has only gotten glowing praise about both his integrity, his character, his temperament, and the way he treats people in his courtroom and throughout his life.

There is also no disputing that he has enjoyed very broad bipartisan support in the past and significantly to this day. First of all, there was not a single Senator who opposed his confirmation to the Tenth Circuit when he was nominated and confirmed.

President Barack Obama's Acting Solicitor General, a Democrat, has endorsed Neil Gorsuch for the Supreme Court. A bipartisan group of attorneys, former colleagues from his law firm, classmates of his, and many people across the political spectrum from both parties who know this man personally have strongly endorsed his candidacy.

So as to these very important criteria—his intellect, his education, his knowledge, his experience, his temperament, his character—everything about this man is really quite extraordinary, and that is not even disputed. That is almost universally acknowledged.

So what is the attack? What is the criticism that we hear about Judge Gorsuch? Well, one is this notion that somehow he is outside the mainstream. We have heard this from some of our colleagues who intend not to support Judge Gorsuch.

One of the things about being a circuit court judge is that it is actually quite easy to evaluate whether or not a circuit court judge is outside the mainstream because, as it happens, appellate court or circuit court judges don't rule alone. They rule in groups. It is usually a group of three when they are hearing a case as a subset of the full court, or it is the entire court. Either way, they are ruling with other judges.

So you can evaluate, for instance, how often they are by themselves, how often they are the sole minority dissenting view, because that might be an indication of someone who is outside the mainstream.

It is interesting. In the over 2,700 cases that Neil Gorsuch has decided on, in 99 percent of those cases, he was in the majority. In 97 percent of the cases, it was unanimous. How could that possibly be outside of the mainstream? That is not a valid argument at all.

As to the people who are trying to manufacture some opposition to Judge Gorsuch, what they are doing is they are cherry-picking a handful of the over 2,700 cases in which he has participated in, and they try to find a handful in which Judge Gorsuch did not rule in favor of litigants that our Democratic colleagues believe are politically sympathetic. That is what their argument has come down to.

The Democratic minority leader has been down on the floor for a speech, and I will quote from his speech. He said: "I saw a judge who repeatedly decided with insurance companies that

wanted to deny disability benefits to employees.”

The Democratic leader goes on to say: “I saw a judge who, in unemployment discrimination, sided with employers the great majority of the time.”

Here is another quote: “Time and time again, his rulings favor the already powerful over ordinary Americans.”

The Democratic leader went on to marvel: “Judge Gorsuch ruled against a teacher.” “Judge Gorsuch ruled against a truck driver.”

Now, even if you set aside the fact that the facts in these cases have been wildly distorted in the retelling that I have heard, and if you set aside the fact that even in those very cases in which Judge Gorsuch has ruled, often he has ruled with the Democratic judges who enjoy the support of our Democratic colleagues, and even if you ignore the fact that in many of these cases he was bound by precedent—he had no choice—you could also ignore all the many other cases in which Judge Gorsuch ruled in favor of workers and unions and people who allege sexual harassment, environmentalists, immigrants, and other sympathetic litigants. The minority leader put all that aside. I think we have to ask a fundamental question: What is missing in this critique of Judge Gorsuch’s decisions? What I find striking is that what is missing is any reference to the law. I don’t hear them mention the law. I have not heard any of our Democratic colleagues, who intend to oppose Judge Gorsuch, say that he ignored the law or that he violated the law or that he misapplied the law or that he misunderstood the law. I don’t hear anything of the sort.

Now, why do you suppose that is? I think I know why that is. I think because to many of the people who are threatening to oppose Neil Gorsuch, the law isn’t what really matters the most. What really matters the most is that politically favored special interests or someone that they think the public will be sympathetic to has to win regardless of the law. They want a policy outcome and one that would benefit their perceived preferred litigants, rather than the law.

Here is what I think. I really think there are two unpardonable offenses in the minds of our friends and colleagues who are opposing Neil Gorsuch’s nomination. The first is that Judge Gorsuch believes in the rule of law. I know he does. It is very, very clear. To some degree, there is a fundamental debate going on here between those who support his candidacy and those who oppose it, and it is fundamentally about the role of judges in the U.S. constitutional system.

One view, the view that I have—and I believe the one that Judge Gorsuch shares—is that the law totally matters. What the law says matters, and that includes the Constitution. The words matter. And not only that, but it is up

to the American people to change laws or to change the Constitution, if the American people see fit. It is up to judges to impartially apply the law and the Constitution, as it is written, and that is an important thing here. Both of these are important.

Under our view of the world, a judge is supposed to see everyone the same regardless of race, sex, wealth, political affiliation, or other characteristics. A judge is obligated to neutrally apply the law. Whether you are a man or a woman, young or old, rich or poor, Black or White, that is not supposed to matter to a judge. There is a reason our symbol of justice, Lady Justice, is depicted wearing a blindfold—it is because as a judge you are not supposed to decide based on these characteristics of a person; you are supposed to decide based on what the law says. This is fundamental to an independent judiciary, to a nation that lives by the rule of law.

But the other view, the critics’ view—they constantly go back not to the law or the application of the law but to how sympathetic the litigants are. That is what matters most to them. That is an implicit rejection of the notion that everyone is equal before the law. Instead, in that world view, some are more equal than others and the law means whatever a judge thinks it should mean, and that is based significantly on whom the litigants are.

The same applies to the Constitution, in their world view, that of those who are opposing Judge Gorsuch. The Constitution can’t really mean exactly what it says—that can be very inconvenient—and so what the Supreme Court is supposed to be, in the minds of our friends who are opposing Judge Gorsuch, the Supreme Court is really a permanently sitting constitutional convention. Make up the Constitution as it goes along. Decide what it means today as opposed to what it meant yesterday or what it might mean tomorrow. The judges are supposed to be acutely sensitive to the race, wealth, political affiliation of the people who come before them, and those criteria matter a great deal.

In fact, you have to ask yourself, if that is the way you view the world, why even bother having a trial? Why not have a checklist and see whether the litigants come down on the politically sympathetic side of the ledger, and once you know that, you can decide? Why bother with the hassles or a trial or a case?

I would suggest that this approach to the law—the law that depends on the race, ethnicity, or any other criteria of the litigants—such a law is not a law at all. That is how a banana republic imposes the law; that is not how America views the law.

So my view, as I stated earlier, that the law means exactly what it says and nothing other than what it says—and that also applies to the Constitution—that is a view which is often described

as originalism. The opponents’ view, especially with respect to the Constitution—they believe the Constitution is a living document, meaning changes over time, in their view. I would suggest that this is the fundamental choice between the rule of law in the former case and the rule by judges in the latter case.

Justice Scalia once said: “Every tin horn dictator in the world today, every president for life, has a Bill of Rights.” The Bill of Rights only protects us if it is enforced and if it is enforced consistently and equally for everyone who is involved. How much protection does our Bill of Rights provide if, as Chief Justice Hughes stated in 1907, “the Constitution is what the judges say it is”? Well, as Justice Scalia observed, once the original meaning of the Constitution can be set aside and judges can rewrite it, then they can rewrite and limit individual liberty or any other of the rights that are so fundamental to the nature of our country.

Let me give an example that makes this very specific. There is a case that came before the Supreme Court not very long ago called the *Kelo* decision. The Fifth Amendment states very clearly that the government cannot take private property unless it is “for public use.” That is what it says in the Constitution. Look it up. Well, in the *Kelo* case, five Supreme Court Justices decided that public use can mean private use. The word “public” can mean “private.” Specifically in this case, what they said was that the government can come along and take an individual’s home and give it to a private company—in this case, to use as a parking lot for a private venture. This is blatantly unconstitutional. It is very, very clear. Yet that is what happened when five Justices decided they could just rewrite the Constitution as they prefer it.

Here is the thing about this: Even if you believe it is a good idea to be able to take someone’s house and give it to another private developer because he has a better use for it than the homeowner, if you think that is a good idea—I don’t happen to think that is a good idea, but you might. If you do, we have a mechanism for making that policy permissible. You change the Constitution. You amend the Constitution. You can strike that word or insert another clause. There are any number of ways you can change that.

But here is what is so important: Under our constitutional system, the only people who get to change the Constitution are the American people. They do it through their elected representatives in the Congress and in the State legislatures, but they are the sovereigns. It is the American people who get to make these decisions, who determine policy, not five unelected guys wearing black robes, because when they get to make that policy, they are not accountable to anyone. They can’t be fired. The Presiding Officer and I can be fired. If we are not

doing the job our constituents want us to do, we will be fired. That is how we are held accountable. Our constituents can replace us with people who will reflect the policies they want. That is why we are the policymakers under our constitutional system.

I believe Neil Gorsuch completely understands this. It is one of the reasons our friends on the other side of the aisle can't bring themselves to support him.

I think there were two unpardonable sins that Neil Gorsuch has committed. I just mentioned the first. I think the second one was that he was nominated by Donald Trump. We have folks in this Chamber who don't seem to be able to accept that they lost an election, and they are reflexively opposing whatever it is President Trump wants, and apparently they intend for that opposition to continue indefinitely.

In a public interview, the minority leader was quoted as saying: "It is hard for me to imagine a nominee that Donald Trump would choose that would get Republican support that we could support."

He was asked a follow-up question: "So will you do your best to hold the seat open?"

The Democratic minority leader replied: "Absolutely."

Hold the seat open for 4 years or maybe 8 years? This is outrageous, and it is unprecedented.

If the minority leader were to get his way, for the first time in the history of the Republic, we would have a Supreme Court nominee defeated by a partisan filibuster. Let me stress this. This has never happened before in the history of the country. How many times have we nominated and confirmed Supreme Court Justices? Never once have we had a partisan filibuster used to block the consideration of a nominee. We have had people withdraw. We have had people who were voted down.

The case of Abe Fortas was an unusual case where there was a bipartisan filibuster because there was a perception of ethics problems, and he, in fact, had to resign as an Associate Justice. The bipartisan filibuster was used when there was an attempt by President Johnson to elevate him to Chief Justice. That is not the precedent. There is no precedent.

Take the case of Clarence Thomas. In my lifetime, I am pretty sure Clarence Thomas was the most controversial nominee we have ever had. It was a brutal, very difficult, very contentious, really ugly process—the hearings, the nomination process, the confirmation process. In the end, Clarence Thomas was confirmed with 52 votes. Any Senator in the body could have insisted on a 60-vote threshold if it was there, but nobody did. No Senator did because the custom has been that Supreme Court Justices get confirmed if they have a majority of support. So what the minority leader wants to do is completely departing from that and establishing a new threshold.

The minority leader made an argument that is absolutely laughable. He suggested that because President Obama's nominees got 60 votes, well, then President Trump's should. What is laughable about that is the reason President Obama's nominees got 60 votes is because Republicans gave them those votes. I was running for the Senate at the time that Sonia Sotomayor was nominated, and I pointed out that there was a lot I disagreed about with her. I am sure I will not be happy with many of her decisions. But here we are in the President's new term—relatively early—and this is a qualified, capable person. I am not going to obstruct. I voted to confirm her, and a number of Republicans did join the Democrats, and President Obama got Justice Sotomayor and Justice Kagan confirmed to the bench.

The minority leader has suggested that there is this tradition of 60 votes. Well, you don't have to take my word for it; the Washington Post Fact Checker—not exactly the mouthpiece of the Republican Party—did their fact-checking analysis, and they said it was absolutely false. They gave him three Pinocchios.

It is also one of the many ironies of this that the very same Democrats who insist that we should allow them to permanently block any Supreme Court nominee because they won't provide the votes to get to 60 are the ones who actually did break the Senate tradition and establish a 50-vote threshold when they wanted to pack the DC Circuit Court of Appeals back in 2013. Now they suggest that if we use the same tactic they used—although we are doing it for a different reason—that this would be an abomination, that the Democrats would never do this. Well, actually, they did in 2013. But as for the circumstances we face now, there is no mystery about what they would have done because they told us just 12 days before the election.

Our Senator TIM KAINE, the Democratic nominee for Vice President, was asked: "What happens if," as everyone expected at the time, "Hillary Clinton becomes President and the Democrats take control of the Senate, if Republicans were to filibuster a Supreme Court nominee? What would you do?"

I will quote Senator KAINE. He said: "We will change the Senate rules to uphold the law, that the court will be nine members."

Here is the truth: If the election had gone differently, if Hillary Clinton had won and if Democrats were in control of the Senate, then Republicans would have probably provided the votes for a competent, capable, qualified Supreme Court nominee, just as Republicans did for Elena Kagan and Sonia Sotomayor. That is what history has shown. Unfortunately, our Democratic colleagues at this point seem unwilling—or at least some of them are—to provide the same bipartisan cooperation to a new President attempting to fill a vacancy that Republicans provided to President Obama.

Let me conclude with this: The case for confirming Judge Gorsuch was summed up pretty well by the editorial board of the Chicago Tribune—again, not exactly the RNC's mouthpiece—in endorsing Neil Gorsuch. They said:

Here is a judge who knows the law and knows the role of the judiciary: He isn't on the bench to make law, he's there to interpret it faithfully, because the separation of powers among the branches of government serves our democracy. Sometimes the result benefits liberal positions, sometimes conservative. . . . Some of Gorsuch's critics think judges should be creative and expansive depending on the political climate—to treat laws differently on a cold night than a warm one. Those critics suggest that they fear Gorsuch won't follow the law, but the opposite is more true: They fear he will. Gorsuch should be confirmed.

If our Democratic colleagues aren't willing to confirm Neil Gorsuch to the Supreme Court, then there is no one they are going to vote to confirm to the Supreme Court. And we cannot allow a Democratic minority to block an up-or-down vote and deny filling a vacancy on the Supreme Court for 4 or 8 years. We simply can't allow that to happen, and I trust that we won't.

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. MURPHY. 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. MURPHY. Mr. President, I have a great deal of respect for my friend from Pennsylvania, as we have worked together on a number of issues, but forgive me if my blood boils when I hear my Republican friends talk about breaking precedent in this body when it comes to the consideration of Supreme Court nominees. Forgive me if I get a little angry when I hear those on the other side of the aisle talk about Democrats' using exceptional measures, in their opinion, in order to oppose a Justice for the Supreme Court. Come on. Everybody knows what happened here last year. The Republican majority decided to deny the President of the United States—at the time, Barack Obama—the ability under the U.S. Constitution to nominate a Justice to the Supreme Court, not because of anything having to do with the merits of the nominee, Merrick Garland, but simply because the President was a Democrat. Everybody knows that is what happened. Everyone knows that precedent was broken and that comity was broken here in the Senate when the Republican majority decided not just to deny a vote on this floor but not to even give the courtesy of a meeting, of a hearing to Merrick Garland despite the fact that he was unquestionably qualified for that position.

It is a fiction to suggest that there is some strategy amongst Democrats on this nomination. We are all making up our minds individually. I decided yesterday that I was not going to support

Judge Gorsuch because I think he is likely going to side on behalf of corporations and special interests instead of my constituents and bring his politics to the bench in a way that I do not think squares with the people whom I represent. Yes, I am going to use my ability to vote on the floor of the Senate in order to stop his nomination.

I understand Republicans may not be happy about my decision and the decisions of others on this side of the aisle, but let's have a discussion about the merits of Judge Gorsuch, not the question of which side is breaking precedent because everybody remembers what happened to Merrick Garland. Nobody has forgotten that. This is not some quid pro quo, this is not some tit for tat, but to come down and pretend as if 2016 did not happen.

Mr. President, I would like to speak for a moment about a potential CRA—another CRA—that is perhaps coming to the floor this week or next week. It is one that would take away the ability of States to try to do something about the retirement crisis that is enveloping this country.

I speak as one of the youngest Members of this Chamber, and it scares me to death to think that half of Americans who are in their working years have no money saved for retirement today before a qualification for Social Security or Medicare. Even worse, a study that I looked at the other day suggested that 58 percent of Americans who are working have not even done the calculations as to how much money they will need in order to retire.

There is a retirement crisis in this country, and you can understand why, as wages have been essentially flat for tens of millions of Americans and employers have largely left the space of defined benefit plans. And there is just no money to save when you have to cobble together your paycheck to meet your budget every week and when your employer is not putting in the kind of plan he used to and the kind of contribution he used to. So you can understand why Americans are in this position.

State governments—those laboratories of experiments that I hear a lot of my friends talk about—have come up with an idea. There are 55 million working Americans who do not have a way to save for retirement out of their regular paychecks, meaning their employers are not offering them any way to set aside a portion of their incomes in order to save.

So that is one number—55 million Americans. Here is another: In my State, 44 percent of workers do not have access to retirement plans through their employers. That is about 600,000 people in Connecticut. Half of my State does not have access, when they show up to work, to retirement savings plans through their employers. Yet we know that employees who have access to a payroll deduction are 15 times more likely to save for retirement—not twice as likely, not 5 times as likely, but 15 times more likely.

It stands to reason that State legislatures would step in and say: OK, for employers who are not offering plans, we are going to give employees the ability to set aside a small portion of their earnings in a privately run plan that is sponsored through the State governments.

If the employer is not going to do it, then there is really no one else other than the State governments. In a handful of occasions, the States of decided to step in and offer this option to employees.

By the way, as far as I understand, it is not traditionally a State-run plan; it is a privately run plan. It is just that the State is acting as the conduit to get employees linked with private plans and to allow for a small portion of their paychecks to be set aside. Employees are 15 times more likely to save if they have access to that payroll deduction.

This is a pretty run-of-the-mill, typical State intervention in order to try to solve a problem that is real for State legislators. So it is a mystery to me as to why we would try to take that ability away from States.

What we are doing is taking away an ERISA exemption for States relative to these plans. Why that is important is that ERISA is all about the employer-employee relationship. There are important responsibilities that flow from employers to employees when they are engaging in a retirement plan that is offered through the workplace. But the State is not the employer of this individual; the State is simply acting as a conduit to get that employee into a private sector plan. So the ERISA rules simply do not work. They are a mismatch for this State innovation. The Federal Government, through regulation, has recognized that.

Importantly, in my State of Connecticut, which does have one of these plans, we provide ERISA-like protections, so the protections you get in ERISA, you get through this State innovation. It is just that the way in which the Federal Government normally requires it does not make sense because the State in this case is just the conduit, not the employer.

This sort of seems like a pretty run-of-the-mill exercise of State innovative power, a fairly run-of-the-mill exercise of Federal regulatory authority to allow for this innovation to happen, and it is hard to understand why we are taking it away, why we are taking this ability away from 600,000 Connecticut residents who, frankly, will not have access to easy retirement savings without it.

We have known that set-asides in your paycheck work. That is why we have provided incentives for employers to do it. But not every employer does it. Why? Because if you are a small employer, it just may not make sense administratively to establish one of these plans. So States have decided to offer it themselves.

I know that the retirement industry may not love this idea because it might

not make the same fees on these plans as it would if the plans were offered through the employer, but, frankly, these hundreds of thousands of people in my State are not going to be the retirement companies' customers without this innovation. It is not like these State-backed plans are stealing business from the private retirement plans. They were never going to be customers without their ability to put aside a little bit of money.

We have a retirement crisis in this country right now, and this is an innovative way to solve it. I know this is not yet scheduled for a vote, a Congressional Review Act vote that would take away the ability of States to offer these plans in a meaningful way, and I really hope we think twice about it. It sort of feels like we are just inventing CRAs to bring before the Senate and the House. We are kind of scraping the bottom of the barrel, and this one just does not make sense. This does not make sense.

Let States that want to pass this innovation, that want to give their constituents, their citizens the ability to save through payroll deductions, through payroll withholding, the ability to do that. Do not do the bidding of the big retirement providers, who may think they are going to make more money if the CRA passes, but in reality these folks were probably never their customers. Let States move forward with this innovation. Let the people of Connecticut and California see how it works so that maybe other States can learn from our experience.

I hope we can come to some agreement to leave this innovation alone and move on to some other important issue here and not risk doing something that is, frankly, going to exacerbate the retirement crisis that exists in this country. Republicans and Democrats should be trying to work together on this question of giving people more access to retirement plans.

For all of the things that we fight over, whether it be the healthcare law or whether it be a tax cut bill or a budget, this just seems like one of these issues in which we should set this CRA aside with respect to State innovations and try to find a way to find some common ground. I hope that is where we will head. It would really matter to my constituents in Connecticut, who are expecting to receive the benefit of this newfound access to retirement.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Tennessee.

NOMINATION OF NEIL GORSUCH

Mr. ALEXANDER. Mr. President, I notice my distinguished friend was indignant over the Supreme Court debate. I think each of us has a right to have his own opinion. Here is mine.

There is such a thing called the Thurmond-Leahy rule. It has been in place for a while. I think it reads that after June of a Presidential election year, the Senate will not confirm a

President's nominees. That is a bipartisan rule that has been enforced by the Senate for several years. Senator MCCONNELL moved it up three months, from June to March—that is true—even though Democratic leaders said that is exactly what they would have done if the shoe had been on the other foot.

Democrats are saying that as a result of that—the 3-month change—which is what they said they would have done anyway, they are going to do something that has never been done before: They are going to deny a Supreme Court Justice a nomination by not allowing a majority vote. That has never happened in 230 years. Our nominations have always been decided by a majority vote. There was a little incident in 1968 with Abe Fortas when President Johnson sought to elevate him to Chief Justice, but that has been the tradition in the Senate. We have always approved Presidential nominees by a majority vote, and we have always approved Cabinet members by a majority vote, even controversial ones. We have never required them to get 60 votes—ever—and the same with Federal district judges. And the same was true with Federal circuit judges until the Democrats started using the filibuster to require 60 votes, as has been well documented here. So I think people need to know the facts.

What the Democrats are proposing to do next week—quite apart from the fact that Judge Gorsuch is one of the most eminently qualified people we have seen come around in a long time—flies in the face of 230 years of tradition in the Senate by insisting that a Presidential nominee to the Supreme Court requires more than 51 votes to be confirmed.

I looked very quickly back at my own votes. None of us are perfect, and I am not asking for any merit badges, but I wonder where the Democrats are who are trying to do at least what I was trying to do when President Obama was there. I found at least 10 times that I voted for cloture—voted to cut off debate—on controversial nominees with whom I disagreed, and then I voted against them when the vote was 51.

With Secretary of Labor Perez, cloture was invoked 60 to 40. If I had voted no, that would have denied him his Cabinet position. He is now the chairman of the Democratic National Committee. I cannot think of any Cabinet member I disagreed more with, other than perhaps the one I am about to mention next, but I thought the President deserved to have his own nominee, and I thought we ought to respect the tradition of never having denied a Cabinet member a position because of a 60-vote requirement.

Another one was John King, the Education Secretary. I asked President Obama to appoint him or somebody of his choosing. I thought we needed an Education Secretary for a year even though I have great differences with

John King. I respect him greatly, but I have differences with him.

So I got him confirmed as chairman—I don't want to say it that way. I asked the President to do it, as chairman of the committee. I saw that he had a prompt confirmation, and then I made sure he had enough votes to be confirmed—not by much. When it came to cloture, I may have even voted for him when it came to it, just because I thought the President deserved to have his own appointment.

Then there was Attorney General Lynch. Cloture was invoked with only 66 votes. I voted to end debate and have a vote on her.

Secretary of Defense Chuck Hagel—there was opposition to him. I voted no there on confirmation, but I voted to make sure that there was a vote. I voted for cloture.

For two National Labor Relations Board members and a National Labor Relations Board General Counsel, cloture was invoked by 64, 65, and 62 votes—very close. I voted against all three of them for confirmation, just as I did Secretary Perez, because I disagreed with them so much. But I thought that we ought to respect the fact that we confirm Presidential appointees by 51 votes.

There are three or four others, but I want to mention only one more specifically: District Court Judge John McConnell, Jr., from Rhode Island. There was an effort on this side of the aisle to deny him a cloture vote. I resisted that. I talked to some other Republicans. I voted for him for cloture. He got it 63 to 33. Then I voted against him for judge.

The importance of that was if he had had his nomination blocked by the cloture vote, he would have been the first Federal district judge in the history of the court to not have been allowed to have an up-or-down vote, majority vote. So I resisted that in that instance. I resisted that for Perez. I may have been the deciding vote; there were only 60 votes.

While I said I am not looking for merit badges, where are the Democrats who are willing to vote like that—to preserve the Senate's 230-year tradition of approving Presidential nominees by a majority vote? I think this is a terrible precedent, not justified, and I am sorry to see things heading in this direction.

Now I wish to make some remarks on another matter.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 761 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Maryland.

HEALTHCARE

Mr. VAN HOLLEN. Mr. President, I was just listening to my friend, the Senator from Tennessee, and I think there are things we can do to improve the healthcare system and the Affordable Care Act. I am glad that the House

soundly defeated the so-called TrumpCare bill, RyanCare, whatever you want to call it, but many of us have called for more competition in the exchanges through things like a public option. Also, I think all of us can agree that we need to reduce the skyrocketing costs of prescription drugs, and I think there are other things we can do. I welcome that discussion.

Mr. President, I am here now to talk about something else that is currently being done to help millions of Americans save for their retirement, to provide for a secure retirement. I know all of us have been involved over the years in debates about how we can strengthen our retirement security program for all Americans. We really have a three-legged stool here. One is Social Security. That is a bedrock of our retirement system. We need to make sure that we strengthen it, and we need to make sure that it is there for all future generations.

Second, many Americans have the opportunity to have a retirement plan through their employer where their employer guarantees them a certain defined benefit, a certain income stream when they retire.

And the third leg of this stool has been Americans' private savings, and we want to encourage more Americans to put aside those funds so that they can care for themselves and their families when they are no longer working.

That is what brings me to the floor today. Many big employers—including, I should say, the U.S. Senate and the U.S. House of Representatives, and the government—provide their employees with things like 401(k) plans. These are ways that people can put aside some of their income as they earn it, but put it aside tax-free for their retirement. And many millions of Americans—again, especially those who work for large employers—have that benefit. But if you work for a smaller employer or even a midsized employer, there is a very good chance that you do not have easy access to those 401(k) plans, to those retirement vehicles that are so essential to saving for retirement. In fact, there are about 55 million Americans, according to studies by both the AARP as well as the Brookings Institution—about 55 million of our fellow Americans who do not have access to those 401(k) vehicles and other kinds of savings vehicles through their employers.

So in response to this problem, a number of States—five States, to be specific so far, including the State of Maryland—and some municipalities have come up with creative solutions that allow small- and medium-sized employers—those who are not currently offering those retirement vehicles directly—these State plans allow their employees to put aside a little money for their retirement and get the same tax-preferred benefits as people who work for big companies.

The reason small and medium-sized companies don't always provide the

same retirement savings accounts as big companies is that it can impose a burden and costs on those small employers. So States have developed these other creative platforms to do it.

In my State of Maryland, this was an incredibly bipartisan process. Republican State legislators and Democratic State legislators came together and put together this State plan. The Republican Governor of Maryland, Governor Hogan, signed the legislation.

Today, about 1 million Marylanders—including a lot of young people who work for startups and other small businesses that don't have the wherewithal to provide these retirement savings platform—are benefiting by platforms which have been created to put money aside for their retirement. People are taking personal responsibility for their retirement. People who didn't have that opportunity before through their employers now have this vehicle to do it. It doesn't cost the Federal Government one penny. Taxpayers at the Federal level don't have to put anything in it. It is relatively low cost for the States and municipalities as well. They have to just create a platform, and they have people from across their States or municipalities benefiting from them.

In order for States to do that, they needed one small change in Federal law. Under the administration of President Obama, the Department of Labor made this fix to the Federal law which allowed these States and municipalities to develop these platforms that helped millions of Americans benefit from these tax savings accounts—just like, I would point out, every Senator in this body has access to those kind of savings accounts.

So I have a very simple question: Why in the world is it somehow a priority for this Senate to take away the access States have given to their residents and deny them that opportunity to take personal responsibility to put aside funds—tax-preferred funds—in these savings accounts to plan for their future? Why would we come down and say we are not going to allow this to happen anymore? I thought this was the kind of experimentation we want to see at the State level and this is the kind of savings that we want people to do to take responsibility for their own retirement. Yet here we are about to come down with a big foot and say: No, you can't do that.

I am trying to figure out who is opposing this. I have been looking in my office for letters from people who are actually going to take responsibility for coming forward to say they want to deny this opportunity to save for millions of Americans—an opportunity that every Senator here has. It is easy for us. We are part of a big employer, the U.S. Government. We have 401(k) accounts, and so do people who work for big corporations. We need to extend that same opportunity to people who work for small employers and midsized employers that don't have the capacity

and wherewithal to take that upon themselves, but they want their employees to benefit from these vehicles. So they have worked with States and municipalities to allow it to happen. Why would we ever want to pull the plug on that and deny our fellow Americans those opportunities to save for their future?

I can't figure out for the life of me how this somehow became a partisan issue here in the Congress. It wasn't partisan in the State of Maryland. Everybody got together and worked this out. Everyone agreed this was good for the people of Maryland.

So I ask our colleagues here to look at this as an opportunity to help encourage activities in our States that allow people to take the personal responsibility for their future that we are asking them to do. I ask all of our colleagues, really, to take a close look at this and to try to figure out why it is a bad idea to encourage States and municipalities, working with local employers—both small and medium-sized employers—to do what we have done in Maryland, what other States are doing, and what States can do going forward if we don't come down and slam the brakes on this innovative idea to help more Americans put aside money for their retirement.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. LEE). The Senator from Michigan.

Mr. PETERS. Mr. President, Michigan is a State that builds things. We invented the auto industry and created a new era of manufacturing. My State saw the American labor movement grow and fight to deliver the 40-hour workweek and safe workplace conditions. In Michigan, we work hard, and after a lifetime of hard work, we expect to be able to retire with dignity.

The American dream can mean different things to different people, but I believe there are some universal elements. We all want our children to prosper and see more opportunity than we have had. While we all need to have a secure retirement, we dream of passing on to the next generation—whether it is a small business or a family farm, a home with the mortgage paid off, or a nest egg that has been built up over many decades. I fear this piece of the American dream—the ability to enjoy a comfortable retirement on the strength of your lifetime earnings—is slipping further and further away for increasing numbers of Americans.

The measures we are considering this week, which would repeal the Department of Labor's safe harbor for States and municipalities developing retirement plans, would be a step backwards. Generations ago, Congress heard the American people and agreed that it was simply unacceptable for retired and elderly Americans to live in poverty. The solution that followed was Social Security, perhaps the most effective anti-poverty program ever created.

Today, we must meet that challenge once again. We must preserve and

strengthen Social Security, and I will fight for that every day that I am here in the Senate. But a modern, comprehensive retirement policy must be more than just a safety net. It must be a ladder to prosperity. A ladder provides a sturdy frame to help people climb and reach new heights, if they are willing to put forth the effort.

Unfortunately, far too many Americans lack access to private savings plans. Traditional defined-benefit plans—the pensions our parents and their parents relied on—are now providing historically low rates. Now, more than ever, expanded access to defined-contribution workplace retirement accounts is critical to our Nation's economic future. Solving the retirement crisis is a complicated puzzle, but one of the most important pieces is access.

Ninety percent of Americans with access to a workplace plan report saving for retirement, while just 20 percent of those without access to a plan say they have saved. Although this difference should be as clear as night and day to everybody, only about half of private sector workers have access to a 401(k) retirement plan. This leaves nearly 60 million Americans without access to a workplace plan. Make no mistake, the numbers are clear. Workers without access are disproportionately low-income and minority workers.

In an effort to address this sweeping problem, States and municipalities have begun work to create their own programs to support retirement savings programs for workers. Recognizing that States are truly the laboratories of democracy, the Obama administration's Department of Labor put forth policies providing safe harbors to States moving forward with these innovative programs.

Today, instead of working on a bipartisan infrastructure package or legislation to support American workers and small businesses, we are debating the use of a fast-track procedure to undo these new policies and make it harder for cities and States to help tackle the retirement savings gap. If a State or city has a good idea that is helping Americans—all Americans—save for retirement, I think that is great. Why are we blocking States from creating innovative solutions? We should allow these programs to move forward so we can help workers responsibly save their hard-earned money. We should also allow these programs to move forward to see what actually works. The Federal Government certainly does not have a monopoly on good ideas, and States and cities cannot be the laboratories of democracy if we tie their hands. We need big ideas, we need small ideas, and, frankly, we need good ideas so we can get to work with what we need to do to solve this incredibly difficult problem.

A secure retirement cannot become a relic of the past. But this foundational piece of the American dream will only be true for this generation of workers

if we start working on these solutions now. As our Nation wrestles with growing income inequality, we cannot weaken our ladders to prosperity and pull out the rungs that help hard-working families take the next steps upward. Solving the retirement crisis is about empowering workers to do the right thing for their families and for their future, and repealing these Department of Labor safe harbors will only move us in the wrong direction.

I urge my colleagues to oppose these resolutions of disapproval.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Ms. WARREN. Mr. President, Republicans are in charge of the Senate, and so far they haven't put up for a vote in this Congress a single piece of original legislation to help working families—not one. They haven't fixed a single piece of our crumbling infrastructure. They haven't put Americans back to work. They haven't brought down the soaring cost of prescription drugs. And they haven't done a thing to help the 55 million Americans who don't have access to a workplace retirement account to save for their retirement. But they have been busy.

Here is what they have done so far: They have made it easier for giant corporations to hide the payments they make to foreign countries. They have made it easier for companies to discharge filth into our rivers and streams. They have made it easier for Americans suffering from mental illness to buy guns. They have made it easier for hunters to shoot baby bears and wolf cubs from planes. They have made it easier for companies that get big-time, taxpayer-funded government contracts to steal wages from their employees. They have made it easier for employers to hide injuries their workers suffer on the job. They have made it easier for States to divert Federal education dollars away from struggling schools and students. They have made it easier for States to block people who are out of work from getting unemployment insurance payments that they are entitled to by law. And they have made it easier to keep local residents from having a say in how Federal lands are managed.

Now they are back at it again, this time to overturn a rule that will help millions of Americans start saving for their retirement. For years, the Republican-controlled Congress has done nothing to help the 55 million Americans who don't have an employer-provided retirement plan save for their retirement. Nothing. Because of this Federal inaction, 7 States have passed legislation to provide retirement accounts to their constituents, and 23 others are

considering proposals. The efforts of just those 7 States could expand coverage to 15 of the 55 million Americans who don't currently have an employer-sponsored retirement account.

In addition to these State efforts, three cities are actively considering proposals to curb the retirement savings gap, potentially covering another 2 million Americans. Extending coverage to 17 million Americans would go a long way toward starting to chip away at the retirement crisis in this country.

Today, among working families on the verge of retirement, about one-third have no retirement savings of any kind, and another one-third have total savings that are less than 1 year's income. This is a real problem, and Senate Republicans should be working hard to come up with solutions to fix it. But if they don't have any ideas of their own, the least they can do is step aside and let the hard-working Governors, mayors, State treasurers, city councils, and State legislatures continue their important efforts to try to solve our retirement crisis.

Every single time the Senate has come to the floor of this Congress to overturn an Obama administration rule, Republican Senators have said they were voting to remove burdensome Federal regulations that “severely limit the role of State and local governments,” when local governments “could do a much better job of providing for the people of our State.” So why on earth are they now voting to make it harder for cities and States to help their own citizens save for retirement? Why? Three words: chamber of commerce.

The chamber of commerce and the trade associations for the giant financial firms have been fighting tooth and nail to kill these retirement initiatives. Their armies of lobbyists have been deployed to peddle misinformation about what these plans do, all because the giant financial firms that the chamber of commerce and the trade associations represent are worried that the city and State plans might actually offer better investment products with lower fees.

The American people are not calling their Senators asking us to work day in and day out to overturn rules to help them save for their retirement; 72 percent of Republicans and 83 percent of Democrats support these initiatives. They aren't calling us and asking us to make their water dirty or to let their employer put their lives at risk by cutting corners on safety either.

The American voters didn't send us to Washington to work for the lawyers and the lobbyists and the giant corporations that keep corporate profits soaring by skirting basic regulations.

This vote may be really good for filling the campaign coffers of Senate Republicans, and a few of them may pop champagne corks with their buddies at the chamber of commerce after this vote tonight, but Americans are watch-

ing, and they will be ready to fight back.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CASEY. 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. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

RUSSIA AND TRUMP CAMPAIGN INVESTIGATION

Mr. CASEY. Mr. President, I rise to express my grave concern about Russian aggression and interference in our political system. My concerns have been compounded over the last several weeks by the response to these allegations by President Trump and his administration.

First, let's step back for a moment. We know that the Russian Federation is an adversary of the United States. That is without question. Vladimir Putin is what I would like to call a 24-hour bad guy. There are a lot of other ways to express it, but that is one way. There is not a moment of the day when he isn't using his power to undermine our Nation's interests and the interests of freedom and democracy across the globe.

We know that the Russian regime kills journalists, jails and silences their critics, and commits war crimes in places like Syria and Ukraine. Russia meddles in elections throughout the Western world.

Mr. Putin has a warped world view. His view is that the freedom and democratic rights of tens of millions of people in Europe should be subject to the interests of a few in the Kremlin because those countries lie within Russia's supposed sphere of influence.

The work done by our intelligence agencies indicates that Russia meddled in our election with the intent of aiding President Trump. We know that now. In January, our intelligence agencies concluded:

We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election. Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump.

That is what our intelligence agencies tell us, and I am quoting verbatim from that basic finding.

President Trump's refusal to accept the assessment of our intelligence agencies was deeply concerning—and that is an understatement. My concerns were compounded by the fact that President Trump ran on the most pro-Russian platform in modern history. Since President Trump has taken

office, he has harshly criticized our allies, from Australia to Mexico, yet when it comes to Russia's provocations and war crimes, President Trump is silent.

This deference that President Trump shows to Mr. Putin is troubling and, when combined with Russia's meddling in our election, it raises profound questions that need answers. That is why I strongly support the establishment of an independent commission to investigate Russia's interference in our political system, and I believe that the Justice Department must appoint a special counsel to investigate this matter as well.

What the American people need to know, once and for all, is at least three things: No. 1, what specific actions Russia took to aid President Trump during the election; No. 2, whether U.S. persons had knowledge of or were involved in these actions; and, finally, No. 3, whether President Trump has financial entanglements with Russians associated with the Putin regime.

You could probably add other questions, but I think they are the three basic questions we have to answer.

So this is a grave problem with substantial national security implications. My constituents agree, as I am sure is the case in every other State. Just since January 1, more than 80,000 Pennsylvanians have written to my office about Russia. That is 80,000 Pennsylvanians. These are thoughtful letters from Pennsylvanians who are so concerned about this issue that they took the time to write.

A constituent from Cumberland County, right in the middle of our State, wrote:

I am bothered by the reports of Russia trying to interfere with our democracy. I am particularly bothered by a lack of transparency in the administration with news reports of AG Sessions' undisclosed contact with Russia. Russia is having the effect they wanted by shaking confidence in our system.

That is a constituent from Cumberland County.

Another constituent from Northampton County, along the eastern side of our State, just north of Philadelphia, wrote this:

All politics aside, the investigation about Russia's actions is a concern to our republic. . . . Ultimately, it does not matter whether our elected officials are democrats or republicans, but it does matter that we all always put America's best interests first.

If the warnings from the U.S. intelligence community and the pleas from 80,000-plus Pennsylvanians aren't enough, then let's look at the numerous credible reports of contact between Russian officials and the Trump team. This body of reporting grows every day.

On January 18, McClatchy reported that "The FBI and five other law enforcement and intelligence agencies have collaborated for months in an investigation into Russian attempts to influence the November election, including whether money from the Kremlin covertly aided President-elect Don-

ald Trump, two people familiar with the matter said."

On January 19, the Washington Post reported, "U.S. counterintelligence officials are sifting through intercepted communications and financial data as part of a wider look at possible ties between the Russian government and associates of President-elect Donald Trump, officials said."

Then again on January 19, the New York Times reported, "American law enforcement and intelligence agencies are examining intercepted communications and financial transactions as part of a broad investigation into possible links between Russian officials and associates of President-elect Donald J. Trump, including his former campaign chairman Paul Manafort, current and former senior American officials said."

We know that Mr. Trump's former campaign manager, Paul Manafort, previously worked for the Russian-backed President of Ukraine, Victor Yanukovich. According to an August 2016 report by the New York Times, "Handwritten ledgers show \$12.7 million in undisclosed cash payments designated for Mr. Manafort from Mr. Yanukovich's pro-Russian political party from 2007 to 2012, according to Ukraine's newly formed National Anti-Corruption Bureau."

In February 2017, when confronted by the New York Times about reports that Trump associates may have been in contact with Russian officials during the election, Mr. Manafort said, "It's not like these people wear badges that say, 'I'm a Russian intelligence officer.'"

Then there is the case of a former member President Trump's foreign policy advisory committee, Carter Page. In September of 2016, Yahoo's Michael Isikoff reported, "U.S. intelligence officials are seeking to determine whether an American businessman identified by Donald Trump as one of his foreign policy advisers has opened up private communications with senior Russian officials—including talks about the possible lifting of economic sanctions if the Republican nominee becomes president, according to multiple sources who have been briefed on the issue."

In an interview with PBS's Judy Woodruff, Mr. Page was asked whether he met with Russian officials while he was on the Trump campaign. Ms. Woodruff asked, "Did you have any meetings—I will ask again—did you have any meetings last year with Russian officials in Russia, outside Russia, anywhere?" Mr. Page answered, "I had no meetings, no meetings. I might have said hello to a few people as they were walking by me at my graduation—the graduation speech that I gave in July, but no meetings."

Yet after USA Today reported that Mr. Page met with Russian Ambassador Sergey Kislyak at the Republican National Convention, Mr. Page told MSNBC's Chris Hayes that he would "not deny" meeting with the Russian Ambassador.

Furthermore, reporting by both USA Today and CNN helped get to the bottom of one of the enduring mysteries of this summer's Republican National Convention: why was the effort to insert a provision into the party's platform supporting lethal aid for Ukraine defeated? Last summer, Mr. Manafort said that the decision to defeat the provision supporting lethal aid "absolutely did not come from the Trump campaign."

In January of 2017, the Washington Post's David Ignatius reported that President Trump's National Security Adviser, Michael Flynn, engaged in discussions with Russian Ambassador Sergey Kislyak during the transition as then-President Obama was applying sanctions against Russia for its meddling in the U.S. elections. After the Russian Foreign Ministry vowed retaliation for the Obama administration sanctions, it was reported that several calls between Mr. Flynn and Ambassador Kislyak took place. The next day, President Putin announced he would not retaliate against the U.S. for the sanctions. The Nation was told by the Vice President that Mr. Flynn's contact with the Russian Ambassador was logistical in nature. Then it was revealed that the issue of sanctions may have been discussed. Subsequently, General Flynn resigned his position.

Then, there is the issue of President Trump's associate, Roger Stone, who demonstrated in tweets last summer that he may have had advance knowledge of some of the hacked material. In October 2016, Mr. Stone admitted to a Miami TV station that he had "back-channel communications with WikiLeaks founder Julian Assange." Mr. Assange is the founder of Wikileaks, the website that Russian hackers appear to have used to deposit hacked documents during the 2016 campaign.

These revelations give credence to a February report by CNN: "High-level advisers close to then-presidential nominee Donald Trump were in constant communication during the campaign with Russians known to US intelligence, multiple current and former intelligence, law enforcement and administration officials tell CNN."

This summary is an illustrative list of many of the credible reports that are out there. Let's review just a few of the reports that have come to light since our intelligence agencies released their assessment.

In November of 2016, the President's spokesman at that time said: "The campaign had no contact with Russian officials," yet the Russian Deputy Foreign Minister had stated that "there were contacts during the campaign." On January 19, the New York Times reported that the communications of President Trump's former campaign manager, Paul Manafort, his former foreign policy adviser, Carter Page, and his longtime associate, Roger Stone, were under investigation for contacts

with the Russians. Yet despite that, President Trump continued to say for weeks that all of these reports about an investigation and contacts with Russian officials were so-called fake news.

We have learned that the Trump administration's dismissals of these investigations and reports do not align with the facts. It seems that the administration has a strategy for all of these allegations—dodge and deceive, dodge and deceive.

After all the dodging and deceiving, sometimes we finally get admissions of the truth. Again, the facts are disturbing and have meaningful national security implications.

Here is an example of how these contacts may have actually changed policy. This past summer, ABC's George Stephanopoulos asked President Trump:

Then why did you soften the GOP platform on Ukraine?

Candidate Donald Trump responded:

I wasn't involved in that. Honestly, I was not involved.

In early March, USA Today reported that then-Trump advisers Carter Page and J.D. Gordon met with Russian Ambassador Sergey Kislyak at the Republican Convention. In an interview with CNN, Mr. Gordon said that the effort to remove support for lethal security assistance to Ukraine from the Republican Party platform was done expressly to fulfill the wishes of then-Candidate Trump.

Now it is not uncommon for foreign officials to attend conventions. It is uncommon and completely, totally inappropriate for them to use that platform to shape our Nation's policies by a change in a party platform.

The dodging and deception continues. After insisting during his confirmation hearing that he had no contacts with Russian officials, it was reported that Attorney General Sessions, who was a top leader in President Trump's campaign, did indeed meet with the Russian Ambassador. There is nothing to hide about meeting with a foreign ambassador. That is part of our job as Senators, and Attorney General Sessions was a Member of the U.S. Senate. For example, in 2013, I met with the Russian Ambassador to advocate for Pennsylvania families torn apart by the Russian Government's ban on international adoptions. I was there with a significant group of other Senators from both parties. But why would Mr. SESSIONS provide incorrect information to the Judiciary Committee, and why wouldn't he immediately correct the record? That is a question that we have to ask, and that is a question that deserves an answer.

Finally, there is the issue of President Trump himself. We know that for many years he has expressed an interest in doing business in Russia. In 2008, Mr. Trump's executive vice president for acquisitions and development in his business said:

Russians make up a pretty disproportionate cross-section of a lot of our assets;

say, in Dubai, and certainly with our project in SoHo and anywhere in New York. We see a lot of money pouring in from Russia.

So if one takes all of these reports together, plus the ones I have entered into the RECORD, one has to ask: What is going on? What is going on with all this information?

That is why my constituents and I have questions. That is why we need an independent commission and a special counsel appointed by the Justice Department. The administration owes the American people answers.

We cannot allow my constituent Pam's warning to come to fruition. We cannot allow Russia to exploit political differences to shake confidence in our democratic system. The United States has a proud tradition of rule of law and checks and balances. These are things that distinguish us from the autocratic and corrupt regimes around the world.

The longer it takes to get to the bottom of these questions, the longer it will be until we can get back to advancing meaningful policies to resist Russian aggression and stand with our European allies. We need to make a commitment to maintaining and expanding sanctions on Russia for a variety of malign activities: No. 1, the cyber attack on our elections; No. 2, their—the Russians'—indiscriminate bombing of civilians in support of the Assad regime in Syria; No. 3, their unabated support for separatists in eastern Ukraine; No. 4, the Russians' continued illegal annexation of Crimea.

The American people and the people of Pennsylvania, as well, have had enough of dodge and deceive on these issues. They want answers, and the only way to get them is by way of an independent commission and a special counsel.

The President and every Republican and every Democrat in the House and the Senate in all of Congress need to say once and for all, clearly, definitively, unequivocally: We will never allow this to happen again, and then work together to make that a reality.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I am here on behalf of 55 million working Americans who lack access to retirement savings plans through their employers. These numbers underscore a very, very uncomfortable truth for many Americans—that there is a looming retirement crisis in our Nation.

Congress must do more to preserve, protect, and strengthen retirement savings for all Americans. I come to the floor to express my strong opposi-

tion to the legislation before us, which would do precisely the opposite.

H.J. Res. 67 would tear down ongoing efforts at the State and municipal levels to assist, not obstruct, hard-working Americans in preparing for financially stable and rewarding retirements.

I also want to express my very deep concern about efforts by my Republican colleagues to force a vote on H.J. Res. 66 in the very near future. I would advise my colleagues to reconsider their taking action on both of these misguided proposals right away.

While many private sector employers have the option to set up and their employees have the choice to contribute to their own retirement savings accounts, fewer than 10 percent of workers who are without access to a workplace plan contribute to retirement savings accounts outside of their employers.

To address this growing issue, in August of 2016, under the guidance of the Obama administration, the Department of Labor promulgated what has become known as the State-sponsored auto-IRA rule. This rule provides critical guidance for States on how to administer programs that are designed to improve access to retirement accounts among private sector employees. These State-facilitated retirement programs would allow State governments to provide automatic enrollment in State-sponsored IRA programs, with there being the opportunity to opt out at any time.

There are misguided and progressive proposals that seek to overturn the critical rulemaking that protects Americans in this process. If passed, these resolutions, very simply, will cripple ongoing efforts on the State level to ensure that retirement savings opportunities are more readily available for all workers.

In my home State of Connecticut, we have led efforts to find secure and innovative ways to address the growing retirement savings gap for nearly 600,000 working people in Connecticut who lack access to employer-based retirement savings. The Connecticut Retirement Security Authority has led this effort. It was created in 2016, and it is based on almost 2 years of market research, public hearings, meetings, and broad input from employers, potential participants, and representatives of the financial sector.

We are moving in the right direction in Connecticut. Programs that represent a strong step in the right direction have been fostered and built by encouraging State facilitation with private providers. These plans allow workers access to secure, low-cost retirement savings accounts in Connecticut. That effort would be set back by these proposals to undercut and reverse progress made at the Federal level. Incomprehensibly, these bills would severely undercut efforts to promote State and city auto-IRA programs. It is a blatant attack on these programs and

on working families in Connecticut and elsewhere.

I urge my colleagues who believe that Congress should spend time in expanding, not limiting, access to innovative solutions to the American savings crisis to join me in opposing these resolutions.

They have broad economic implications. They set back job creation as well as economic progress. There are 55 million individuals—many of them in Connecticut—who lack the ability to save for retirement directly from their paychecks. This gap is exacerbated by the fact that nearly 20 percent of people between the ages of 55 and 64 have, virtually, zero in retirement savings. That is true of Connecticut and every State in our country.

A lack of retirement savings leads to disastrous results and jeopardizes access to adequate meals, healthcare, and other necessities. Simply put, no American family and, certainly, no Connecticut family should be deterred or discouraged from planning for the future by saving responsibly.

I urge my colleagues to join me in voting no on H.J. Res. 66 and H.J. Res. 67 because States and municipalities should have the flexibility to implement proven strategies to support hard-working Americans who wish to prepare themselves for retirement.

RUSSIA AND TRUMP CAMPAIGN INVESTIGATION

Mr. President, I find in Connecticut—and, I am sure, my colleagues find around the country—that Americans are outraged and appalled by Russia's disinformation campaign that has been waged against our free and fair electoral process. There is no question now—the intelligence agencies have confirmed it—that Russia interfered in the campaign of this latest election.

Our electoral process is the bedrock of our democracy. Russian interference in our election is an attack on our democracy. Indeed, it is an attack on America. Some believe—and I join them in this concern—that it is an act of war.

As appalling as the Russians' actions have been, I am equally—if not more—concerned about the “see no evil, hear no evil” attitude of this administration. It was aided in its election by Russia's campaign of disinformation, malign theft, its dissemination of private data, propaganda, and cyber attack. That cyber attack was unconscionable and unprecedented in its scope and scale.

Our Nation's intelligence community has provided chilling and absolutely horrifying confirmation of this Russian interference in our democracy. Yet the White House continually dismisses these reports. This week, we are learning that they actually may be actively interfering with and trying to redirect efforts by Congress to discover the full extent of Russia's cyber intrusion.

The bottom line here is that only a special prosecutor at the Department of Justice can apply sunlight and conduct a vigorous, independent investiga-

tion. Only a special prosecutor can remove this stain on our democracy. Only a special prosecutor can provide our Nation with assurance that wrongdoing will be effectively investigated and then charged and prosecuted. Only a special prosecutor can give us the closure we need and deserve.

Every day, evidence mounts pointing to the need to investigate these Russian ties and contacts with the Trump campaign. The more we learn, the more troubled and outraged the American people become.

Just this week, revelations have surfaced that Representative NUNES, chairman of the Intelligence Committee in the House, met on White House grounds with a source who showed him secret American intelligence reports that he then used to defend President Trump's claims that his closest associates were under surveillance by the Obama administration. That this information actually came from a meeting at the White House has intensified questions about where the information actually originated and whether the President's team is actually meddling in the congressional investigation. Chairman NUNES's actions have fatally tainted the House Intelligence Committee investigation and infected it with the virus of partisan bias.

Just yesterday, we also learned, based on letters obtained by the Washington Post, that the Trump administration sought to block former Acting Attorney General Sally Yates from testifying to Congress in the House investigation, adding additional taint. We all recall she is the one who blew the whistle on the real risk of General Flynn being blackmailed by the Kremlin. Instead of thanking her, the President fired her. After firing her for doing her job, the administration is now intent on stopping her as a witness from revealing exactly what the President knew about his adviser's ties to foreign interests.

The House investigation is incontrovertibly compromised by having a Trump surrogate running and organizing it and the administration—at least in appearance and likely in reality—controlling its access to the facts.

There is a growing body of evidence that clearly and unmistakably indicates that the Trump campaign and his associates were in contact with Russia during the election, and these deeply troubling claims of coordination with a foreign government to influence an American election deserve exacting and aggressive investigation.

The declassified report from the intelligence community clearly identifies Russia Today as a state-sponsored propaganda source that was integral to Putin's campaign to interfere in that election, and it makes it equally clear, and deplorably so, that former National Security Advisor Flynn accepted \$45,000 to praise Russia Today in Moscow and dine with Putin at the network's request.

We know as well that Attorney General Sessions and Jared Kushner, the President's son-in-law and now senior adviser, had unreported meetings with Russian officials, including the head of a Russian bank under U.S. sanctions. The President's former campaign manager, Paul Manafort, funneled millions of dollars into offshore accounts from a Russian oligarch through the Bank of Cyprus, which was owned at the time by Wilbur Ross, now serving as the President's Commerce Secretary.

These contacts form a network of facts and suspicion, but more than suspicion, there are real sources of information and facts. As Ronald Reagan said, “Facts are stubborn things.”

These disclosures are all the more reason—indeed, compelling evidence—that a special prosecutor is necessary to investigate Russia's ties and contacts with the Trump campaign. Immediate, aggressive measures to hold Russia accountable and deter further aggression must be taken. Those actions must be based on facts as well, but we must acknowledge publicly that the need for deterrence requires effective responses, appropriate and necessary measures to send a message and inflict the kind of cost that is necessary to show Russia that we will never accept these kinds of attacks. At stake is not only Russia's view of this country and deterrence to further attacks but also the credibility and trust of the American people in the Department of Justice, and that is where a special prosecutor is absolutely vital.

I support the work of the Intelligence Committee in the Senate, and I trust the members of that committee to do their work responsibly. I believe as well that we should have a select committee—or, even better, an independent commission—that will make findings of fact, produce recommendations, have public proceedings, and then, in the interest of full transparency and disclosure, produce a report with recommendations that will help provide a path to avoid these kinds of attacks on our democracy in the future and potential collusion between Americans and those attacks.

I believe that an independent commission would serve a worthwhile purpose, but neither the Intelligence Committee, nor a select committee, nor an independent commission can do what is equally important, which is prosecute wrongdoers. None of these bodies, whether congressional or independent commission, can investigate criminal wrongdoing so as to assure an effective and successful prosecution. That work must be done with the FBI and supervision of an independent, special prosecutor who can investigate vigorously and independently and then take action and bring charges if they are warranted.

I support the investigation of the Intelligence Committee, which should do its work, the appointment of a select committee that can produce findings of fact and a report and recommendation,

and an independent commission that can do the same kind of public, transparent, open disclosure. A special prosecutor does not produce a report; they and the team will produce a prosecution, if it is warranted. They are the only ones who can prosecute.

We cannot stand idle while Russia interferes and threatens our political infrastructure, which now includes our electoral system. Neither can we stand idle while our Department of Justice is leaderless or, worse yet, has a prosecutor who also may be tainted by the fact that he reports to the Attorney General or to the President. The Attorney General has recused himself, with good reason, because he was implicated in allegations surrounding collusion between the Trump campaign and the Russian interference.

The allegations of collusion are serious. They must be investigated, and the investigation and potential prosecution must be done by someone who is independent—a special prosecutor. Revelation upon revelation day after day leaves us with no choice. In fact, we had no choice well before now, but the disclosures that have surfaced just within the last hours and days confirm that justice will not be vindicated unless we have a special prosecutor. That is why I have chosen to block the nomination and confirmation of the Deputy Attorney General. I will consider doing it with other nominees as well. I feel so strongly—and I hope my colleagues do as well—that a special prosecutor is necessary to vindicate justice, to make sure that Americans have trust and confidence in our Department of Justice and in the ability of the United States to protect its democracy and the integrity of its electoral process.

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 bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

TRIBUTE TO JILL HRUBY

Mr. HEINRICH. Mr. President, it is an honor to recognize Jill Hruby and her team for their commitment to the success of Sandia National Laboratories and their commendable service to the Nation.

Since 2015, Ms. Hruby has been the president and director of Sandia Na-

tional Laboratories and will be leaving the labs at the end of April.

It has been a pleasure working with her over the last 2 years.

With more than 12,000 employees, Sandia is our Nation's largest national laboratory with principal sites in Albuquerque, NM, and Livermore, CA.

The lab employs some of the best and brightest minds in the country and is indispensable to our national security and to maintaining our Nation's science and engineering superiority.

Ms. Hruby joined Sandia in 1983 to work on research in nanoscience, hydrogen storage, mechanical component design, thermal analysis, and microfluidics.

She served for 27 years at Sandia's California location, managing projects responsible for weapon components, microtechnologies, and materials processing.

In 2010, she came to New Mexico to serve as the vice president of the Energy, Nonproliferation, and High-Consequence Security Division and as the leader of Sandia's International, Homeland, and Nuclear Security Program Management Unit.

In July 2015, Ms. Hruby became the first woman to direct a national security laboratory.

Ms. Hruby has authored numerous publications, holds three patents in microfabrication, and won an R&D 100 Award in solid-state radiation detection. In 2016, the Society of Women Engineers presented Ms. Hruby with the Suzanne Jenniches Upward Mobility Award in celebration of her rise to a leadership role and her dedication to creating a nurturing environment for women in the workplace.

She has said that she wants her work to matter to others and to have a purpose greater than herself.

I commend Jill Hruby for her incredible record of service to our Nation addressing some of our most complex issues and challenges, and I wish her the best in all of her future endeavors.

ADDITIONAL STATEMENTS

RECOGNIZING THE STUDENTS OF CLAN OF MOR'DU

• Mr. KING. Mr. President, today I wish to recognize and to congratulate the students of the Clan of Mor'Du team for their recent State competition victory and their invitation to participate in the FIRST LEGO League World Festival.

As we enter a century of fast-paced innovation where science and technology continue to be at the epicenter of our daily lives, it is important to promote STEM education so that the next generation of engineers and entrepreneurs can fully harness the opportunities these new advancements bring to our society. Therefore, it is my honor to bring to the attention of the Senate a group of astounding young students and their coaches from Spruce Moun-

tain Middle School who have stepped up to the plate to accept this challenge.

These outstanding students compete in the State's rigorous LEGO league, where teams must build and program robots made from LEGO NXT kits to solve missions. Their dedication to excellence and their perseverance against teams from more prominent school districts has already lead them to two well-deserved statewide championship victories. In honor of their tireless efforts, the Clan of Mor'du have been invited to attend the FIRST LEGO League World Festival in St. Louis, MO, this spring. For most of these curious young students, it will be their first trip outside of Maine.

I wish to join the communities of Jay, Livermore, and Livermore Falls, as well as the State of Maine, in congratulating the Clan of Mor'du for their pioneering spirit and remarkable achievements. Their willingness to challenge themselves and work together as a team is a testament to the tenacity and ingenuity of Maine's great people.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Pate, one of his secretaries.

PRESIDENTIAL MESSAGE

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT MALICIOUS CYBER-ENABLED ACTIVITIES THAT WAS DECLARED IN EXECUTIVE ORDER 13694 ON APRIL 1, 2015—PM 4

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency declared in Executive Order 13694 of April 1, 2015, is to continue in effect beyond April 1, 2017.

Significant malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States, continue to pose an unusual