

When you look at the other protections that we built in to provide that your policy, when you bought it, would cover mental illness and substance abuse treatment, that is considered revolutionary but important. Finally, after all of these years in America, we are looking at mental illness as an illness rather than a curse. We are looking at it as something that can be successfully treated. Yet here comes Cassidy-Graham tossing out that requirement as well.

Let the insurers decide what they want to offer. I was talking to one of the Republican Senators the other day, and he said: Well, you know, some people just may not want to buy certain coverage.

I can understand that, but I can also understand the reality of life. Who can predict that next year or next month you would learn that perhaps your high school daughter has been taking opioids and now is addicted to heroin? You didn't know it before, not when you bought your health insurance policy. Now that you know it, who is going to cover the substance abuse treatment?

Under the Affordable Care Act, it is built into your health insurance policy. Under the Cassidy-Graham approach, it is an option. Try it if you like it. It doesn't work in a lot of circumstances. We buy insurance for things we pray will never happen, but we want to be covered in case they do. Cassidy-Graham walks away from that. They are for what they call "flexibility." It is flexibility to buy insurance that isn't there when you really need it.

When you look at the litany of all of the States that are winners and losers under Cassidy-Graham, you have to shake your head. Why would we be richly rewarding States that have not done their part to expand Medicaid coverage? Why would we devastate the Medicaid Program, which is so important for so many people?

Medicaid is a program that many people didn't understand until we got into this debate, but it is a program that is essential if you have a disabled child.

A woman in Champaign, IL, with a young son in his twenties suffering from autism told me that without Medicaid coverage he would have to be institutionalized, and there is no way her family could afford it.

We know that Medicaid is there for that family and for many low-income families when it comes to pregnancies, to make sure that mom has a successful pregnancy and that the baby is born healthy and ready to thrive.

Is that an important asset? Of course it is, and it is an important element of Medicaid. The one thing that costs the most in Medicaid is something the Republicans don't want to acknowledge, and that is the fact that two out of three people in nursing homes—seniors who are under medical care—rely on Medicaid. Without that Medicaid assistance, who is going to pay that bill?

The family reaching into their savings? Some can, but most will not be able to afford it.

How will the Republicans explain that away as just one of the benefits of flexibility—that Medicaid is not there when your parent or grandparent desperately needs it?

So now we have this debate before us, which will come up by the end of next week, and it is one that really will affect a lot of people across America. I, for one, will do everything I can to stop this. Any program that is going to take health insurance away from a million people in Illinois and up to 30 million nationwide is a bad start, a bad idea, a failed idea.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CLOTURE MOTION

Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Noel J. Francisco, of the District of Columbia, to be Solicitor General of the United States.

Mitch McConnell, John Kennedy, Lamar Alexander, Johnny Isakson, Mike Rounds, Tom Cotton, Roy Blunt, John Barrasso, Patrick J. Toomey, Cory Gardner, John Hoeven, Rob Portman, Bill Cassidy, John Cornyn, Orrin G. Hatch, Lisa Murkowski, Thom Tillis.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Noel J. Francisco, of the District of Columbia, to be Solicitor General of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Kansas (Mr. MORAN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) is necessarily absent.

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

The yeas and nays resulted—yeas 49, nays 47, as follows:

[Rollcall Vote No. 200 Ex.]

YEAS—49

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

NAYS—47

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

NOT VOTING—4

|         |          |
|---------|----------|
| Cochran | Menendez |
| Graham  | Moran    |

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 47.

The motion is agreed to.

The Senator from Arkansas.

RECOGNIZING THE 70TH ANNIVERSARY OF THE UNITED STATES AIR FORCE

Mr. BOOZMAN. Mr. President, I rise to speak in honor of the 70th anniversary of the United States Air Force.

In the seven decades since its inception on September 18, 1947, the U.S. Air Force has bravely fought to protect freedom, liberty, and peace on every continent around the globe. From active participation in major international conflicts to providing humanitarian support throughout the world, the U.S. Air Force has continued to be the Nation's leading edge across every domain and throughout every location by meeting the challenges of an ever-changing world with limitless strength, resolve, and patriotism. Today, more than 100,000 airmen are standing watch at 175 global locations, committed to continuously defending the people and interests of the greatest Nation in the world.

As cochair of the Senate Air Force Caucus and the son of a retired Air Force master sergeant, I have been personally touched by the proud history of this distinguished service. From the earliest days of aviation when the Department of War accepted its first military airplane to the present-day delivery of global airpower, the U.S. Air Force has made tremendous strides in the technological innovation and operationalization of air, space, and cyberspace warfighting capabilities.

The earliest aviation pioneers believed in the notion of airpower and fought for its development into a force so formidable that its responsibilities

and contributions would eventually be recognized as being equal to those of land and sea power. In essence, the birth of the U.S. Air Force began the dawn of a new era, where the skies became the ultimate high ground.

As we celebrate this historic occasion, we must also remember and honor the courageous men and women of the U.S. Air Force, as the service would not be what it is today without these fine airmen.

I had the privilege of speaking at the Department of Defense's National Prisoner of War/Missing In Action Recognition Day last week. It served as a poignant reminder of the many sacrifices made by our men and women in uniform.

One such airman, Brig. Gen. Kenneth Newton Walker, played an important role in building the organization that would later become an independent air service. General Walker's direct contributions to crafting doctrine and policy were instrumental to the creation of the modern U.S. Air Force.

General Walker was reported missing in action after his B-17 Flying Fortress went missing over Papua, New Guinea, in 1943, and was posthumously awarded the Medal of Honor by President Roosevelt. The actions of fearless warriors like General Walker symbolize a continuing commitment to meeting the demands of an increasingly dynamic and dangerous world with limitless strength, resolve, and determination.

These dedicated airmen and their values of integrity, service before self, and excellence that they uphold in all they do embody a proud heritage, a tradition of honor, and a legacy of valor. We owe them a tremendous amount of gratitude for the sacrifices they have made defending the greatest country on Earth on this, the 70th anniversary of the United States Air Force.

I am especially proud of my home State of Arkansas and its contribution to our air superiority. The Little Rock Air Force Base and the 188th Wing in Fort Smith play an important role in our national security. I am proud to support these missions and look forward to continuing to support our airmen stationed in Arkansas and throughout the world.

I am pleased to be here speaking on behalf of a grateful nation, remembering, honoring, and commanding our airmen and the world's greatest Air Force.

I yield back.

Mr. GRASSLEY. Mr. President, I am pleased to support Noel Francisco to serve as the next Solicitor General.

Mr. Francisco comes to us with impressive credentials. He graduated from the University of Chicago Law School and clerked for Judge Luttig on the Fourth Circuit and Justice Scalia on the Supreme Court. He has spent time in both the private sector at prestigious law firms and in the public sector as counsel to the President at the White House and in leadership roles at the Department of Justice.

Mr. Francisco has impressive experience arguing before the Supreme Court. His client won in each of the three cases he argued there. He has been named one of Washington, DC's "Super Lawyers," as well as one of the "100 Most Influential Lawyers in America."

It is vital for the Office of the Solicitor General to have its leader in place, so I am pleased that, after waiting for over 3 months on the Senate floor, we are finally voting on this nominee today.

Mr. DURBIN. Mr. President, I rise in opposition to the nomination of Noel Francisco to be the Solicitor General of the United States.

The Solicitor General—often called the "tenth Justice"—argues on behalf of the United States in the Supreme Court. It is a critical position in our government, and it is critical that we have a Solicitor General with the independence to tell the President when the position he wants the United States to take before the Court is indefensible.

Mr. Francisco already had a troubling tenure as Acting Solicitor General earlier this year. He led the effort to defend the original version of the President's controversial travel ban. That Executive order was blocked repeatedly in Federal courts and was then withdrawn. In defending this unconscionable order, Mr. Francisco argued that there should be no judicial review when a President makes decisions on immigration policy on the basis of his national security assessment. The Ninth Circuit stated that "there is no precedent to support this claimed unreviewability, which runs contrary to the fundamental structure of our constitutional democracy." If he is confirmed, Mr. Francisco would likely be called upon again to defend President Trump's latest iteration of the travel ban when it is considered by the Supreme Court in October.

When he was under consideration by the Judiciary Committee, I asked Mr. Francisco many questions to give him the opportunity to show his independence from President Trump. For example, I asked him if he agreed with President Trump's absurd claim that 3 to 5 million people voted illegally in the 2016 election. He refused to answer the question.

I asked him if he believed it was appropriate for a President to ask an FBI Director to pledge loyalty to him. He declined to comment.

I also asked him about the Constitution's Emoluments Clause, which prohibits government officials from accepting gifts or benefits from foreign states without Congress's consent and which many legal scholars believe President Trump has violated. Mr. Francisco actually had written an opinion on the Emoluments Clause when he was in the Justice Department's Office of Legal Counsel. I asked him what he believed the Founding Fathers intended this clause to mean. His

response? "I do not have any well-formed views on the scope of the Emoluments Clause." It is puzzling that an originalist like Mr. Francisco would not comment on the original meaning of a constitutional provision, but he clammed up when it came to this particular clause which is directly relevant to President Trump's behavior.

While Mr. Francisco has been reluctant to demonstrate independence from President Trump, he has been willing at many points in his career to demonstrate loyalty to special interests. For example, Mr. Francisco gave a speech at the 2015 annual conference of the Community Financial Services Association, better known as the trade association for the payday lending industry. Here is what he said: "The payday lending industry is facing the challenge of a lifetime. It is essential that, as an industry, you be prepared to respond on all fronts, and it has been my privilege to assist you in doing this over the last few years. This includes the legislative front, the regulatory front, and—my favorite—the legal front."

Let's be clear. We don't need a Solicitor General who thinks it is a privilege to assist payday lenders.

Mr. Francisco also was a prominent lawyer for the tobacco industry. His advocacy on their behalf prompted a number of national antismoking and health organizations to call for Mr. Francisco to recuse himself from tobacco-related litigation matters if he were confirmed. I asked Mr. Francisco if he would commit to recuse himself from tobacco litigation, but he would not make that commitment.

Mr. Francisco has been eager to position himself alongside rightwing groups like the Federalist Society and the Heritage Foundation. He made this particularly clear at a speech he gave to the Heritage Foundation on May 19, 2016, when he said: "We live in an era where our views, traditional views, are under constant attack. Our adversaries have not even really tried to beat us through the democratic processes, but instead go straight to the courts, where they often win not by asserting that our views are legally wrong, but that they are so fundamentally illegitimate that the Constitution prohibits them. And they now have an increasingly compliant Judiciary that agrees with their policy views and that is unconstrained by legal principle."

This is a troubling characterization, to claim that people who do not share the views of the Heritage Foundation are "our adversaries." It is just as troubling to claim that the Judiciary is acting "unconstrained by legal principle" whenever it disagrees with the views of the Heritage Foundation. Comments like this raise serious questions about the ideology Mr. Francisco would bring to the Solicitor General's office.

Make no mistake—President Trump is likely to keep the Supreme Court

busy. It has never been more important to choose a Solicitor General who displays independent judgment and who is willing to say no if the views the President wants to execute are improper or unlawful. In my questions to him, I repeatedly gave Mr. Francisco the opportunity to display that independent judgment, but he did not do so, and what I have seen in his speeches and his advocacy concerns me.

In short, I do not believe Mr. Francisco has demonstrated that he can be the Solicitor General that our Nation needs. I will oppose his nomination.

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

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

#### HEALTHCARE

Mr. MARKEY. Mr. President, in July, millions of Americans awoke from a months-long nightmare, as the Senate did the right thing and voted down multiple Republican proposals to repeal the Affordable Care Act. The American people breathed a sigh of relief when the future of their healthcare and of their children's healthcare was safe for the time being.

Unfortunately, Republicans want us to go back to that nightmarish time by reigniting their proposal to threaten healthcare coverage for millions of Americans. While the bill the Republicans are supporting today may have a new name, it contains the same mean, devastating policies. It is a zombie bill that despite best efforts and against the will of the American people, will not die.

Like its TrumpCare predecessors, the Graham-Cassidy bill will result in less coverage and increased costs. It eliminates the built-in protections for Americans with preexisting conditions, causing many of them to see their premiums skyrocket just because of a diagnosis. Some experts estimated that an individual with diabetes could face a premium surcharge of \$5,600 under Graham-Cassidy.

Graham-Cassidy will also allow States to decide what insurers have to cover and what they don't; meaning, once again, your ability to have comprehensive healthcare coverage would depend upon where you live.

This is not the type of healthcare reform people in this country want or need, and it is certainly not the type of reform to help us overcome our Nation's opioid use disorder epidemic.

With 91 Americans dying every day from an opioid overdose, we are clearly in the midst of our Nation's preeminent public health crisis. Over these last few months, we have heard time and time again that access to substance use disorder care is the lynchpin to stemming the continually rising

tide of opioid overdoses. Unfortunately, it appears our Republican colleagues have not been listening.

To be fair, access to treatment today is still a challenge. Only 1 in 10 people with substance use disorders receive treatment. Right now, an estimated 2 million people with an opioid addiction are not receiving any treatment for their disorder.

Yet the solution is not to block-grant funds which would otherwise be used to help people get care for their substance use disorders. The answer is also not kicking people off their insurance, but that is what my Republican colleagues are yet again proposing to do.

As with the previous versions of TrumpCare, Graham-Cassidy would threaten insurance coverage for 2.8 million Americans with a substance use disorder. It would end Medicaid expansion and cap the program, slashing its funding and decapitating access to lifesaving care. This bill would simply take a machete to Medicaid—the leading payer of behavioral healthcare services, including substance abuse treatment.

Also, in the same vein as earlier proposals, Graham-Cassidy would allow States to waive the essential health benefits the Patients' Bill of Rights put in place under the Affordable Care Act that ensures that every plan provides comprehensive coverage. Because covering mental health and substance use disorder treatment is expensive, this would likely be one of the first benefits to be cut. As a result, someone struggling with opioid use disorder would have to pay thousands of dollars in out-of-pocket costs, likely forcing many to forgo lifesaving substance use disorder care.

This epidemic of opioid abuse and overdose deaths will only get worse as long as we have a system that makes it easier to abuse drugs than to get help for substance use disorders. Graham-Cassidy would only exacerbate this already dire problem in our country.

Just last week, a leading sponsor of the bill said: "We recognize there are circumstances where states that expanded Medicaid will have to really ratchet down their coverage." "Ratchet down," that is not improving healthcare. That is ripping insurance coverage away from the one in three Americans struggling with opioid use disorder who relies on Medicaid. That is gutting billions of dollars in addiction care and treatment.

Graham-Cassidy isn't a new block grant program, it is a chopping block program—for Medicaid, for coverage, for access to critical substance use disorder services.

I believe past is prologue here. Just as Americans rejected the inhumane and immoral TrumpCare of months past, they are already seeing this new attempt is more of the same and, in some cases, worse. Many patient, provider, and other healthcare groups have already come out against Graham-Cassidy, citing the bill's inability

to maintain the healthcare coverage and consumer protections currently provided in the Affordable Care Act. It is *deja vu*.

Enough is enough. Republicans newest shortsighted stunt is detracting attention from bipartisan efforts to stabilize the individual insurance market and to help decrease costs. Let's end this partisan gambit to repeal and replace the Affordable Care Act and start focusing on ways to make the healthcare system in our country better, not worse.

We need all of you, in every corner of the country, to once again stand up and fight against these mean attempts to harm the health of our family members, our friends, and our neighbors. We need your energy, your commitment, and your passion to do what you did a few months back to help make sure our better angels once again will prevail. You have done it before, and I know you can do it again.

My Democratic colleagues and I will be fighting right here with you to finally put this zombie healthcare bill to rest.

This is the time. This Chamber will be the place where we have this debate within the next week on whether there is going to be a destruction of the Affordable Care Act, a destruction of the promise of access to healthcare for every American. The Republicans are coming back, once again, to try to destroy that promise.

The Republicans harbor an ancient animosity toward the goal of ensuring that there is, in fact, universal coverage for every single American; that it is a right and not a privilege. What they want to do is to leave these programs as debt-soaked relics of the promises that have been made to ensure that there is, in fact, coverage for every American.

So this is going to be the debate. Daniel Patrick Moynihan, the great Senator from New York, used to say that when you do not want to help a program or to hurt a program, you engage in benign neglect—benign neglect. What the Republicans are doing is engaging in a program of designed neglect—of ensuring, after this designed program is put in place, that there is a reduction in coverage, that there are fewer people who get the help they need, that older people have to pay more, that fewer people get access, and that Planned Parenthood is defunded. It is all part of a program of designed neglect of the healthcare of all Americans.

This is a historic battle. It was not completed in July. Now, in the next 10 days, we must complete this fight and make sure they are not successful.

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.

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