Here is the bottom line. Before I was a Senator, I was a lawyer in downstate Illinois, and I looked up to Federal judges. I thought that, to get that job, you had to be a cut above. Otherwise, you wouldn't make it through the Senate's rigorous advice and consent process. Sadly, this Republican Senate is turning advice and consent into ''rush through and rubberstamp.'' Republicans want to pack the courts with judges who will support President Trump's agenda, and so they are hurrying to confirm as many of his picks as possible—even if they are unqualified, ideological, hiding things from the Senate, or too close to President Trump. Our Federal judiciary is being diminished as a result.

I wish my Republican colleagues would stand up for an independent judiciary and a meaningful advice and consent process. We should fill this vacancy on the DC Circuit with someone who is independent of President Trump, not one of his staff attorneys. We should choose nominees who are unafraid to say what the law is on torture, instead of what they might wish the law to be.

I urge my colleagues to vote no on the Katsas nomination.

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

[From the Wall Street Journal, Nov. 20, 2017]

CHECKS ON TRUMP'S COURT PICKS FALL AWAY

(Joe Palazzolo and Ashby Jones)

MOVE TO CURTAIL 'BLUE SLIPS' GIVES THE PRESIDENT, AND SUCCESSORS, WIDE LEEWAY IN PICKS FOR FEDERAL BENCH

The Republican head of the Senate Judiciary Committee has curtailed one of the last legislative limits on a president's power to shape the federal courts, giving Donald Trump more freedom than any U.S. president in modern times to install his judges of choice, legal experts said.

Last week, Sen. Chuck Grassley (R., Iowa) reined in a tradition that empowered senators to block federal appeals-court nominees from their home state. His decision came about four years after Democrats, citing Republican filibusters of President Barack Obama's circuit-court nominees, eliminated a Senate rule that required the majority party to mount 60 votes to advance a nominee to a confirmation vote.

Together, the threat of a filibuster—or delaying tactic—and use of ''blue slips''—so named because senators indicate support or opposition to nominees on blue slips of paper—guarded against lifetime appointments for nominees deemed far outside the mainstream, court experts said. Getting rid of these checks could foment distrust in judges' work if Mr. Trump and later presidents prioritize ideology over experience or legal talent, some of the experts said.

''When judges lose legitimacy in the public eye, they lose the ability to enforce unpopular decisions,'' said Arthur Hellman, an expert on the federal judiciary and law professor at the University of Pittsburgh. ''And that's when you see an unraveling in the rule of law.''

Others said the changes were part of a natural progression away from Senate traditions that allowed the minority party to stall nominations for partisan reasons.

''If you're not a fan of the Senate-wide filibuster, you're probably not a fan of a filibuster by one senator,'' said Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute, referring to the practice of senators blocking nominees from their states.

So far, the Republican-controlled Senate Judiciary Committee has approved two nominees pronounced unfit to serve by the American Bar Association, including Brett Talley, a Justice Department lawyer who has never argued a motion in federal court and whose wife is the chief of staff for the top White House lawyer.

''If Senate Republicans will confirm him, then there is no realistic sense of checks and balances,'' said Christopher Kang, who worked on judicial nominations in the Obama White House.

The White House declined to address criticisms of Mr. Talley.

The ABA's Standing Committee on the Federal Judiciary has deemed two other Trump nominees ''not qualified''—ratings Republicans on the Senate Judiciary Committee dismissed as the product of what they called a liberal advocacy group.

The ABA has rejected that criticism, saying it has rated potential judges for more than 60 years, drawing on dozens and sometimes hundreds of interviews with a nominee's colleagues and other peers.

Hogan Gidley, a White House spokesman, said Mr. Trump has delivered on his promise to nominate ''highly qualified judges.''

''We appreciate the hard work of Chairman Grassley and [Senate Majority Leader Mitch] McConnell, and we urge the Senate to confirm all of the remaining nominees because it's what the American people deserve,'' he said in an emailed statement.

Mr. Grassley said on Thursday that he would hold a hearing on two nominees—David Stras, a nominee to the midwestern Eighth U.S. Circuit Court of Appeals, and Kyle Duncan, a nominee to the Fifth Circuit in New Orleans—over the objections of home-state senators Al Franken of Minnesota, a Democrat, and John Kennedy of Louisiana, a Republican.

The blue-slip practice began in the 1910s and, for a large portion of its history, ''gave Senators the ability to determine the fate of their home-state judicial nominations,'' the Congressional Research Service, a research arm Congress, said in a 2003 report.

Mr. Grassley said that after his recent move, a negative blue slip would be a ''significant factor'' for the committee to consider but wouldn't prevent a hearing, a break with the practice of Senate Judiciary Committee chairmen since at least 2005.

He blamed the Democrats for abusing the blue slip after eschewing the filibuster.

''The Democrats seriously regret that they abolished the filibuster, as I warned them they would. But they can't expect to use the blue-slip courtesy in its place. That's not what the blue slip is meant for,'' he said on the Senate floor last week.

Mr. Grassley also has parted with common practice by stacking two circuit court nominees in a single confirmation hearing, reducing time for preparation and questions, and holding hearings before the ABA finished its judicial evaluations.

''Taken together, it's clear that Republicans want to remake our courts by jamming through President Trump's nominees as quickly as possible,'' said Sen. Dianne Feinstein (D., Calif.), the ranking member of the Senate Judiciary Committee, in an emailed statement.

The median time from nomination to Senate confirmation for circuit-court nominees was less than a month in the administrations of presidents Lyndon Johnson and Richard Nixon, said Russell Wheeler, a visiting fellow at the Brookings Institution who studies federal courts. That number rose through the 1980s and 1990s and ballooned to 229 days during President Barack Obama's two terms, he said.

Ms. HIRONO. 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.

TAX REFORM

Mr. CORNYN. Mr. President, this week we are engaged in what is perhaps the most momentous subject that we haven't dealt with in recent times, and that is, after 30 years, updating and reforming our Nation's convoluted, complex, and self-destructive Tax Code.

Those who are interested in getting to yes and who will cast a ''yes'' vote, I believe, will be casting a vote for growing the economy, voting for more jobs, voting for higher wages, and voting for more take-home pay. Those who vote against this endeavor are really saying yes to stagnant wages, less jobs, and a lower standard of living. They are willing to accept the reality that American jobs are going overseas because our country has the highest Tax Code in the civilized world, and bringing the money earned overseas back home basically means having to pay double taxes. So what people do is they do what you would logically do, and they spend the money overseas and hire foreign workers in foreign countries rather than Americans and make things stamped ''Made in America.''

Simply stated, this bill is about the dreamers and the doers, the small businesses and the hard-working American families who need tax cuts and tax reform. This is about helping the middle class.

Actually, what this bill does—the Senate version of the bill—is it reduces the tax burden on every tax-paying cohort. In other words, all of the tax rates come down. In order to do that, both on the personal side and the business side, we had to eliminate a lot of what I call the underbrush, which are the tax deductions, the tax credits, and the other subsidies that have made our Tax Code so incomprehensible to everybody other than accountants and lawyers. That is one reason people are so frustrated with our Tax Code—it costs them so much money just to comply with their legal obligations.

It has been a long time since we took up this important topic, and I know the reaction is, well, this is just another going-through-the-motions effort, but I assure you that is not the case. These reforms are not only possible, they are very important because they will positively impact real people's lives.

Arthur Brooks of the American Enterprise Institute has said that ''some believe that taxation is a dry topic with no moral significance, but nothing could be further from the truth.'' For example, by doubling the standard deduction, we will limit the number of people who have to itemize their tax deductions in order to claim the full legal deduction. That means that now only 1 out of every 10 taxpayers will have to itemize and 9 out of 10 will just claim the standard deduction, which will now be doubled.

We are also going to double the child tax credit, which will help working families provide the things they need in order to take care of their growing families. It will mean that more people will have more money left over after paying Uncle Sam to spend on their own families, to invest in their children's education, maybe to even take the first vacation they have taken in 10 years or more.

Mr. President, $2,200 is what a median family of four will save in taxes under our proposal. Maybe they want to get their pickup truck fixed. Maybe they want to build a little financial cushion because they have been living paycheck to paycheck. I can't remember the precise statistic, but the number of people in America who could not meet their financial needs if they experienced an unexpected $400 cost—maybe your car broke down, or maybe your house flooded, whatever the case may be. We need people to be able to keep more of what they earn and build a cushion so they don't have to live with the anxiety of living paycheck to paycheck, knowing that if the unexpected happens, it could put them in deep trouble. That $2,200 a year could mean a couple hundred dollars each month to put toward your mortgage, to pay down your mortgage, or to provide a little breathing room.

This plan is also designed to increase wages, and it is estimated that the combined benefit of this bill, together with the economic growth we are anticipating, could mean as much as $4,000 in additional income. So it not only lowers the tax burden, but it raises the income levels. Frankly, as I mentioned a moment ago, our Tax Code incentivizes American businesses to send jobs overseas. Why in the world wouldn't we want to incentivize them to bring those jobs back home and invest here?

Not only can we make this Tax Code better, but I want to emphasize why we should. We have a historic opportunity, and we shouldn't squander our chances to take a bit of the pressure off of frustrated workers and struggling families who are trying to make ends meet.

This country has long been a leader in the world, with the strongest economy and the strongest people, but the reality is, our Tax Code is no longer a world leader. As I indicated earlier, we have one of the highest tax rates in the world, particularly for businesses. So what happens when countries like Ireland or the United Kingdom lower their tax rates for businesses? Well, those businesses move to those countries. People who want to start a new business say: Well, if I have a choice where to start that business, why should I start that business in a country that punishes us with the highest tax rate in the world?

The current tax system penalizes success by taxing American ingenuity and hard work at rates that are uncompetitive, and it discourages our free enterprise system. What I mean is that it sends messages to Americans like, don't work so hard because, you know what, you are not working for yourself, you are working for the government. We ought to be sending the message that by working harder, you can keep more of what you earn and spend it the way you see fit.

Companies, of course, have no particular loyalty to our country, so they don't really have a need to stick around because they are going to go to countries where they can make the most profit, where they can keep more of what they earn.

My basic point is that the messages our convoluted and archaic Tax Code is sending are counterproductive. They are counterproductive to workers who are looking for jobs, they are counterproductive to workers who are looking for a little more in their paychecks, and they are counterproductive to families who want to save and provide for their own future.

In 2016, the Tax Policy Center projected that almost 44 percent of Americans will pay no or negative individual income tax for 2017 under current law, and some smaller number even get more money back from the government in the form of refundable tax credits than they pay in taxes. We need to make sure that everybody participates in our government.

One thing I have heard a lot during this tax debate is that America is horribly in debt. Sadly, that is true. But it is not because of our Tax Code. It is not because Americans aren't taxed enough. It is not because we spend too much money defending our country against threats here at home and abroad. It is because we have a spending problem.

Unfortunately, our Democratic colleagues, who suddenly got religion when it comes to deficits and debt after doubling the national debt during the Obama administration, want to use this as a reason not to cut the taxes for hard-working American families, and I think it is terribly misplaced.

Is the deficit important? Is debt important? Yes, it is, and we know what we need to do to fix that. But denying the American people and hard-working American families the tax relief they need and deserve and failing to get the economy growing again is the wrong way to do it.

Let me quote from Arthur Brooks again. He said: ''If income tax rates are 100 percent, income tax revenue will be zero. Why? Because with a 100-percent tax rate, nobody will bother to work. And companies won't produce'' either.

On corporate taxes, we are seeing a lot of hypocrisy from our friends across the aisle who had previously championed some of the very provisions we have included in this legislation. For example, the ranking member of the Senate Finance Committee, our Democratic friend from Oregon, had previously championed a 24-percent corporate rate because he recognized that a 35-percent corporate rate chased companies, businesses, and jobs overseas. Now he calls our reduction in corporate taxes a giveaway to corporations. You could consider the statements made by President Barack Obama in 2011 when he said to a joint session of Congress—he said that one of the things Republicans and Democrats need to do together is to work on lowering the corporate tax rate because he, too, recognized that this was self-destructive, that it was chasing jobs overseas, that it was preventing the U.S. Treasury from collecting its taxes, and frankly that it was hurting the bottom line for American families who maybe couldn't find work or whose work was not rewarded with fatter paychecks and more take-home pay.

For corporate taxes, economists have said that actually lowering the corporate tax rate will bring more investment and more jobs back home. If it were lowered, expanded production and investment would increase domestically.

Even though it might seem a little counterintuitive, Barack Obama; the Senator from Oregon, Mr. WYDEN; and the minority leader, Senator SCHUMER from New York, were correct when they called for lowering the corporate rate, and it is unseemly to now try to demagogue this issue by calling it a giveaway when it is not. We are doing what they said we should do years ago.

When it comes to these corporate rates, some of my colleagues have raised concerns about passthrough businesses. It is true that a number of businesses operate here in America not as corporations but as passthrough entities, meaning that they pay their business income on an individual tax return. These concerns are legitimate, and we have worked hard to try to address them.

Earlier, we were working with the National Federation of Independent Business, which is one of the largest trade associations in the country representing small- and medium-sized passthrough businesses. We were able to come up with a solution which addressed their concerns and which benefits those passthrough businesses. We still have some more work to do, but that demonstrates what we can do when working together to try to answer the concerns people have raised along the way during this legislative process.

The U.S. Chamber of Commerce, the National Federation of Independent Business, which I mentioned a moment ago, and nearly all major small business advocacy groups support this legislation. We had a press conference here in the Senate, just off the floor, earlier this morning, and it was uniform—everybody said this is good for small businesses. And small businesses are what create the vast majority of jobs in America.

I know that those who have continued questions or issues about the legislation have had productive discussions with all of us and today with the President, who came to visit us. I am confident that if we keep working at it in good faith, we can come up with a way to address the remaining issues so that we are all satisfied as much as possible.

There is an expression: Don't let the perfect be the enemy of the good. If you are waiting around for perfection, particularly here in the legislative process, you are never going to get anything done. That is not an excuse for not making it as good as it can possibly be, I believe, working together, preferably on a bipartisan basis. But if our Democratic colleagues refuse to participate, as they have done so far, then we have no choice but to do it ourselves.

So in the end, a vote against tax reform is a vote for economic stagnation. It is allowing the perfect to be the enemy of the good. The Wall Street Journal, as they said yesterday—the question we need to ask ourselves is not whether the tax bill is perfect but whether it is a net benefit to the United States. I think it clearly is, and I think that, with the policies embodied in this bill, we can restore America's economic vigor.

America must continue to prosper if it is to remain the economic beacon of the world, and we need to remain a strong country economically so we can defend ourselves and our friends and allies abroad. The rest of the world—it is true—is just waiting for a sign that America's best days are ahead, and passing this important tax legislation is an indication that it is the case that America's best days still lie ahead.

It is time to awaken the slumbering giant of the American economy. By lightening the load on workers and companies alike, we can make sure new opportunities abound for those just coming into the workforce. We will make everyday drivers of the economy excited once again about our country's future. The President noted today, when he was with us at lunch, that consumer confidence is literally at an alltime high. People have seen the stock market go up and their retirement funds that are invested in pension funds or in their IRA or elsewhere skyrocket since the Trump administration came into office. I think that is because people are sensing we are on the verge of a great economic recovery.

Accepting a stagnant, anemic recovery is not something we have to do. We know what we need to do to rev up the engine of the American economy and get it moving again to benefit all of us. Through tax reform, let's show that the American dream of allowing men and women to work hard and earn success isn't just a bygone notion, and it is not just a figment of our imagination. We can do it if we pass this tax reform bill this week, which we intend to do.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSON). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Utah.

AMERICAN BAR ASSOCIATION AND THE BLUE-SLIP COURTESY

Mr. HATCH. Mr. President, I rise today to address two elements of the Senate's process for evaluating judicial nominations: the role of the American Bar Association and the so-called blue-slip courtesy. Each can influence the appointment process, and we must be diligent to ensure that neither is abused.

The Eisenhower administration was the first to request the input of the ABA—American Bar Association—on prospective judicial nominations. Speaking to the 1955 ABA convention, President Eisenhower thanked the ABA for helping him and his advisers to ''secure judges'' of the kind he wanted to appoint. If that sounds as though the ABA was a part of the administration, it was.

The ABA evaluated individuals before they were even nominated. Individuals deemed not qualified by the ABA were almost never nominated. No other interest group was given such a quasi-official veto over nominations to any other office.

What could justify such a special role for an interest group? What could do that? The theory is that the ABA was a nonpolitical professional association concerned only with the legal profession and the practice of law.

At its 1933 annual meeting in Grand Rapids, MI, for example, the ABA's executive committee considered changing the ABA constitution to allow ''discussion and expressions of opinion on questions of public interest.'' After arguments that this would revolutionize the scope and purpose of the ABA, no one—not one person—supported the amendment, to the best of my knowledge.

In February 1965, ABA President Lewis Powell, who later served on the Supreme Court, wrote that ''the prevailing view is that the Association must follow a policy of noninvolvement in political and emotionally controversial issues.'' If that view actually prevailed in 1965, it did not last.

The ABA House of Delegates soon crossed the political Rubicon and began taking positions on a host of issues through Federal arts funding, affirmative action, the death penalty, welfare policy, immigration; you name it, and the ABA has endorsed the liberal position, oftentimes the most liberal position. The ABA not only opines on such issues through resolutions but also lobbies legislatures and files briefs in court cases.

The ABA has done exactly what it chose not to do back in 1933 and revolutionized the scope and purpose of the organization. It abandoned nearly a century of noninvolvement in political issues, the condition that was said to justify a special role in the judicial appointment process. It hardly seemed reasonable that the ABA could somehow seal off its evaluation of judicial nominees from all of this political activism so that its conclusions could still be trusted.

In 1987, several members of the ABA evaluation committee said that Judge Robert Bork was not qualified to serve on the Supreme Court. I said at the time that the ABA was ''playing politics with the ratings.''

Three years later, several of us on the Judiciary Committee, including now-Chairman GRASSLEY, expressed the same view in a letter to Attorney General Richard Thornburgh. We wrote that the ABA ''can no longer claim the impartial, neutral role it has been given in the judicial selection process.''

This conclusion has been bolstered by academic research. In 2001, Professor James Lindgren of Northwestern University law school published a study in the Journal of Law & Politics that examined ABA ratings for nominees of Presidents George H.W. Bush and Bill Clinton. Controlling for race, gender, and a range of objective measurable credentials, Professor Lindgren found that Clinton nominees were 10 times—10 times—more likely than Bush nominees to be rated well qualified by the ABA. In fact, he found that ''just being nominated by Clinton instead of Bush is better than any other credential or than all other credentials put together.'' Professor Lindgren concluded that ''the patterns revealed in the data are consistent with a conclusion of strong political bias favoring Clinton nominees.''

A decade later, three political scientists published a study in the Political Research Quarterly, looking at ABA ratings for U.S. Court of Appeals nominees over a 30-year period. Applying recognized social science methods, they concluded that ''individuals nominated by a Democratic president are significantly more likely to receive higher ABA ratings than individuals nominated by a Republican president. . . . [W]e find . . . strong evidence of systematic bias in favor of Democratic nominees.'' You don't say.

President Trump recently nominated Steven Grasz to the U.S. Court of Appeals for the Eighth Circuit. The distinguished Senators from Nebraska have, in the Judiciary Committee and here on the Senate floor, detailed Mr. Grasz's extensive experience and wide support throughout the legal community. He served as chief deputy attorney general of Nebraska for nearly a