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

dozen years, during which time he defended the constitutionality of the State's law banning partial-birth abortion. That might have been his most serious sin in the eyes of the ABA, which has aggressively embraced the abortion agenda for more than four decades.

In 1969, the ABA formed a committee on overpopulation, which immediately launched a project on the law of abortion and endorsed the Uniform Abortion Act in 1972, even before the Supreme Court's now-infamous Roe v. Wade decision legalizing abortion on demand. The committee endorsed Federal funding of abortion in 1978, and in 1990, by more than two to one, they opposed any requirement of parental notification before abortions are performed on minors. The ABA, again, fully embraced the abortion agenda in 1992 and never looked back. It is no wonder that they would deem someone like Mr. Grasz not qualified for the bench.

President Trump has also nominated Brett Talley to the Federal district court in Alabama. Tally attended Harvard Law School. He spent years in a prestigious clerkship at the Federal appellate and trial court levels. He has worked here in the Senate. He has served as a deputy solicitor general of the State of Alabama. He has served in the Justice Department most recently as Deputy Assistant Attorney General in the Office of Legal Policy. He enjoys the support of both of Alabama's home State Senators and has a sterling reputation in the legal community. Yet he, too, has been deemed not qualified by the ABA. How is that possible? That determination is nakedly political and should not be taken seriously.

The ABA once defined its purpose in terms of the legal profession and the practice of law. It has, however, chosen a different path. By doing so, the ABA has not only abandoned what once might have justified its role in judicial selection but has also cast serious doubt on the credibility and integrity of its judicial nominee ratings. The ABA was, of course, free to do so, but it should not expect that its actions have no consequences.

The other element of the judicial confirmation process that I want to address is the so-called blue-slip courtesy. This is an informal practice, begun in 1917, by which the Judiciary Committee chairman seeks the views of Senators regarding nominees who would serve in their States. This practice really gets noticed only when the President and Senate majority are of the same party. In that situation, as we face today, the question is whether a home State Senator can use the blue-slip courtesy to block any Senate consideration and, therefore, effectively veto a President's nominees.

Since the blue-slip courtesy was established, 19 Senators, including myself, have chaired the Judiciary Committee—10 Democrats and 9 Republicans. Only 2 of those 19 chairmen treated the blue-slip courtesy as a single-Senator veto. One of them, apparently, was to empower southern segregationist Senators to block judges who might support integration.

The other 17 chairmen fall into two categories. The early chairmen allowed objecting home State Senators to present their views in the nominee's confirmation hearing. In the last few decades, chairmen of both parties have said that a negative blue slip would not veto a nominee if the White House consulted in good faith with the home State Senators. That is the approach that Chairman Joe Biden took and that I continued when I was chairman, each of us under Presidents of both parties.

The blue-slip courtesy, then, has been a way to highlight the views of home State Senators and to encourage the White House to consult with them when choosing judicial nominees. And it works. When chairmen of both parties have chosen, only a handful of times, to proceed with a hearing for a nominee who lacked two positive blue slips, their decision was consistent with this approach.

Today, Democrats want to rewrite the history of blue slips and redefine the very purpose of the courtesy behind the process. They want to weaponize the blue slip so that a single Senator can, at any time and for any reason, prevent Senate consideration of judicial nominees. They want to change the traditional use of the blue slip because they can no longer use the filibuster to defeat judicial nominees who have majority support.

Democrats opposed filibustering judicial nominees during the Clinton administration. Then, in just 16 months during the 108th Congress, Democrats conducted 20 filibusters on judicial nominees by President George W. Bush. These were the first judicial filibusters in history to defeat majority-supported judicial nominees.

The filibuster pace dropped by two-thirds under President Obama when Republicans conducted just 7 filibusters in 30 months. Claiming that declining filibusters were nonetheless a crisis, Democrats in 2013 abolished nomination filibusters for all executive and judicial nominations except for the Supreme Court.

Democrats took away the ability of 41 Senators to block consideration of judicial nominations on the Senate floor, but now they demand that a single Senator have that much power in the Judiciary Committee by turning the blue-slip courtesy into a de facto filibuster. Like the ABA's rating of nominees, nothing but politics explains this flip-flopping and manipulation of the confirmation process.

On October 31, I addressed this issue here on the Senate floor and suggested that the history and purpose of the blue-slip courtesy could help guide its application today. I still believe that. The views of home State Senators matter, and the White House should sincerely consult with them before making nominations to positions in their States. Home State Senators enjoy countless ways to convey their views to colleagues here in the Senate, and every Senator may decide whether and how to consider those views. But in the end, the blue slip is a courtesy, not an absolute veto. This distinction matters because tomorrow the Judiciary Committee will hold a hearing on a nominee to the U.S. court of appeals from a State with two Democratic Senators. One has returned the blue slip; the other has not.

Chairman GRASSLEY's decision to hold a hearing is completely consistent with the history and purpose of the blue-slip courtesy. Democrats falsely claim that Chairman GRASSLEY is eliminating what they say is a long-standing precedent that home State Senators may automatically veto appeals court nominations. No such precedent exists, or ever has, unless the practice of only two chairmen for only a fraction of the last century constitutes controlling precedent—and we all know it shouldn't.

It is beyond hypocritical for Democrats to pretend they actually care about the confirmation process precedent. They began the practice of forcing time-consuming rollcall votes for nominees with no opposition at all. They began the practice of using the filibuster to defeat majority-supported nominees. They began the practice of forcing the President to renominate individuals multiple times. They began the practice of forcing cloture votes on unanimously supported judicial nominees and then delaying a confirmation vote for days. These weren't actions undertaken by Republicans. There is one side, and one side only, that has continuously pushed this envelope.

Democrats cite a 2009 letter to President Obama from the Republican conference and an op-ed I publishing in 2014 defending the blue-slip courtesy. In each situation, the Democratic majority was actually threatening to abolish the blue-slip policy altogether. In my op-ed, I emphasized that the blue-slip courtesy is intended to encourage consultation by the White House with home State Senators.

When he became chairman in 2015, Senator GRASSLEY explained the blue-slip process to his constituents in a Des Moines Register op-ed. He wrote that the process has value and that he intended to honor it. He is doing just that by returning to the real history and purpose of the blue-slip courtesy.

My Democratic colleagues seem to think that the confirmation process should be whatever they want it to be at whatever moment they so choose. Now they demand that, contrary to most of the last century, a single Senator should be able to do informally what 41 Senators can no longer do formally. They demand following precedent that does not exist while creating new obstruction precedents of their own. Democrats have forced the Senate

to take 60 cloture votes on nominations so far this year, 13 of them on judicial nominations. That is nearly nine times as many as during the first year of all new Presidents—all new Presidents—since the cloture rule was applied to nominations in 1949.

I have been in the minority a number of times, multiple times. I get it. Democrats want their way, and they don't always get it. That hardly means that the majority in general and Chairman GRASSLEY in particular are not being fair, consistent, or evenhanded. The blue-slip courtesy has a history, and it has a purpose. It exists to allow home State Senators to share their views with the Judiciary Committee and to encourage White House consultation with them before making nominations.

Neither a liberal interest group like the American Bar Association nor abuse of the blue-slip courtesy should be allowed to further distort and politicize the judicial confirmation process.

It is a disgrace. It really is a disgrace, the way the Democrats changed the rules automatically, overnight, without even consulting with Republicans, and doing it solely to give advantage to their side, even though this is a process that really ought to have fair treatment on both sides at all times.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. RUBIO. Mr. President, I ask unanimous consent that I be allowed to complete my remarks.

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

TAX REFORM

Mr. RUBIO. Mr. President, I know we are scheduled for a vote in a few minutes. We will have plenty of time to talk about this in the days to come.

I think one of the core things that I hope tax reform will be about is empowering the American worker. By ''the American worker,'' I mean the people whom they don't make Netflix series about and we don't see movies about too often anymore. There was a time when the American worker was a hero in our country. People looked up to the American worker and idealized them. Today, obviously, entertainment focuses on other professions. There is nothing wrong with that, but we have forgotten about their hard work and the millions and millions of Americans across this country who truly remain the backbone of our economy and our Nation.

There are hard-working men and women who are struggling to get by, not because they are not working hard but because everything costs more—something you quickly find out as your family begins to grow. That is why I have spent so much time talking about the child tax credit. A lot of people confuse that with the childcare credit, which is important as well.

The child tax credit takes into account the reality that raising children is an expense. It is a blessing, but it costs money. At the end of the day, it doesn't always matter only how much you make; it also matters how much you spend. And when you are raising children and raising a family, the costs are often out of your control, and they increase substantially every single year. So perhaps the best way to illustrate to my colleagues the impact that tax reform has on working families is to talk about real people and their real lives—how much money they make and what tax reform would mean for them.

I want to start with a real family, a particular family my staff has been communicating with; that is, the Starling family, Richard and Emily, a very young family from Jacksonville, FL. They have a 2-year-old daughter, and they are expecting their second child in March. Richard is a pastor, and he works part time at Starbucks. He makes about $25,000 a year. His wife Emily stays home and cares for their daughter while he is at work.

Because of their income, the Senate tax bill's nonrefundable child tax credit increase would actually be worth very little to them. A lot of people have said to me: Well, we have increased it to $2,000. Isn't that great? It is. But what it means that people don't understand is, if the majority—if all the taxes you pay are payroll taxes, it doesn't help a lot.

I, frankly, get offended when I hear people say: These are Americans who don't pay taxes. They do pay taxes—not income tax, but they pay payroll taxes. They take it out of your check every month. Trust me, it is a tax. It is less money than what was supposed to be there after the tax.

So the tax credit, while we increased it to $2,000—and that is great for a lot of people—it does nothing for them. The total effect is only about $115 for the family. That is how much they will be saving in their taxes from the current year—$115.

But here is where it gets worse. The Senate bill—which I am largely supportive of, but I just want to tell my colleagues what the numbers are so we can see where the changes need to be—the Senate bill would actually increase taxes in March when they have a child. You say: How can that be? Well, for some families in their income range, the nonrefundable increase for the child tax credit is less valuable than the current lost personal exemption. So we take away the personal exemption and we put in this additional child tax credit, but it is nonrefundable. They can't get to that tax credit because they are not paying income taxes, and the result is that if they make $26,000 instead of $25,000, the Senate bill would actually take away $15 from their per-child tax cut.

So these families work hard and pay their taxes, they raise children, they are contributing an extraordinary amount to our country, and they need our help more than ever before.

There are a couple other examples, and I will go to the first chart. Let's take for example a tire changer and a preschool teacher with two children in Gainesville, FL—the home of the university in Florida, the finest learning institution in the Southeast—an editorial thing, but it is a matter of fact. But I digress. Let me get back to chart No. 1 and talk about this family.

The husband, as I said, works at a local auto shop as a tire changer. His wife is a preschool teacher. According to the Bureau of Labor Statistics, with these two jobs, their combined income would be $28,300. Because the increase to the child tax credit is nonrefundable—the extra money we put in—this family wouldn't nearly have enough income tax liability to take advantage of the full credit. So the bill as it is currently written gives them a tax cut of $200—about $50 per person.

But what if we did what Senator LEE and I are proposing, which is to make the child tax credit fully refundable, even against payroll tax. Well, then their tax cut would not be $200, it would be $1,570. Trust me when I tell you that for a family making $28,000 a year, a $1,500 pay increase in real cash matters. It matters. It doesn't solve all of their problems, but it helps.

Here is another one. Take this example. The husband is a private in the Army National Guard, and his wife is a waitress at a local restaurant. They have three children. He is on Active Duty at Camp Blanding in Starke, FL. She works full time. They have a combined income of $33,832, according to the National Guard base pay.

Because the increase, again, is nonrefundable in the child tax credit, they don't have enough income to take full advantage of the tax credit. The bill as currently written cuts their taxes by $388. The proposal that Senator LEE and I have outlined would cut their taxes by $2,100. So a $2,100 pay increase for this working family in cash will matter. It will matter. It doesn't solve all of their problems but, trust me, $2,100 for this family, more than what they have today, will help them a lot, and it rewards the work they are doing.

What about a single mother. Let's say she is a childcare worker. She has one child and is living in Miami, FL, where I live. She works full time. According to the Bureau of Labor Statistics, the median wage for that job is $14,800 a year. She gets a tax cut under the current bill of about $100. If we do what Senator LEE and I are talking about doing, she will get a $1,000 tax cut. I am not telling you that $1,000 solves all of her problems, but a $1,000 pay increase for a single mother making $14,800 a year will matter.

How about a loading dock worker and a cashier in Northwest Florida after having two kids. Here is what we point to: a glaring blind spot in the way this is structured. Again, for many working families, because the child tax credit is nonrefundable, it will actually be less valuable to parents than the dependent exemption and the existing child credits are under current law today. I think