My guest to this year's State of the Union Address was another beneficiary of this historic tax overhaul. Chelsee Hatfield is a young mother of three children and a teller at a rural branch of First Farmers Bank & Trust in Tipton, IN. Chelsee received a raise and a bonus as a result of this tax reform effort. This additional income will help Chelsee go back to school to earn her associate's degree. It will enable her to put money away for her children's future college education. Chelsee represents so many Americans who work in small towns and who live in our rural communities and are going to get a fair shot because of the benefits from tax reform.

The tax reform success stories don't stop there. NIPSCO, or the Northern Indiana Public Service Company, is an electric utility company in Merrillville, IN. It is passing on $26 million in new savings to its customers. Andy Mark, a mechanical and electrical parts supplier in Kokomo, is hiring more employees. Muncie Aviation Company is providing tax reform bonuses for all of its employees. One Hoosier, who lives in Cedar Lake, IN, is growing his third-generation milk-hauling business, and another, who lives in Southern Indiana and works for U-Haul in Louisville, used his $500 tax bonus to pay a bill. These bonuses and raises are allowing more Hoosiers to save for a rainy day, to put more money away towards their child's education, to make repairs to their home, and to keep food on the table.

It is worth noting that when we were debating tax reform, I listened carefully to feedback from my constituents across Indiana. I spent a lot of time traveling the State, holding roundtables, visiting businesses, and talking to folks on the street. I am glad to say that Hoosier voices were heard, and they are receiving the tax relief they asked for. I look forward to continue hearing Hoosiers' tax reform stories, and, like the rest of America, I look forward to this being the last day of the old, outdated tax system.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m, recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. BLUNT).

The PRESIDING OFFICER. The majority leader.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY BUREAU OF CONSUMER FINANCIAL PROTECTION—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to S.J. Res. 57.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 378, S.J. Res. 57, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by Bureau of Consumer Financial Protection relating to "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act."

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from North Carolina (Mr. TILLIS).

Mr. DURBIN. I announce that the Senator from Illinois (Ms. DUCKWORTH) is necessarily absent.

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—50

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

NAYS—47

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

NOT VOTING—3

Duckworth	McCain	Tillis

The motion was agreed to.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY BUREAU OF CONSUMER FINANCIAL PROTECTION

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

The senior assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 57) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by Bureau of Consumer Financial Protection relating to "Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I rise today to offer my support for Senator MORAN and Senator TOOMEY's resolution using the Congressional Review Act to disapprove of the CFPB's 2013 auto finance guidance.

It is important that Congress disapprove this guidance because it was an attempt by the CFPB to make substantive policy changes through guidance rather than through the rulemaking process governed by the Administrative Procedure Act. It was also an attempt to regulate auto dealers who were explicitly exempted from the CFPB's supervision and regulation under the Dodd-Frank Act.

According to an internal CFPB memo, the CFPB rejected developing a rule using its statutory authority to regulate unfair, deceptive, and abusive acts and practices because "the potentially unfair, deceptive, or abusive actions are ostensibly those of dealers, over whom we have no regulatory authority."

As the Wall Street Journal editorial board noted, "That didn't stop former CFPB chief Richard Cordray, who used the back door of auto-financing to regulate dealers."

Make no mistake—the CFPB's decision to develop guidance instead of a rule was intentional. At Senator TOOMEY's request, the Government Accountability Office evaluated the bulletin to see if it should have been submitted to Congress as required by the Congressional Review Act.

The GAO concluded:

The Bulletin is a general statement of policy designed to assist indirect auto lenders to ensure that they are operating in compliance with ECOA and Regulation B, as applied to dealer markup and compensation practices. As such, it is a rule subject to the requirements of the CRA.

Plainly, the CFPB failed to follow the law by failing to submit the bulletin to Congress. Furthermore, issuing guidance instead of formulating a rule allowed the CFPB to sidestep important aspects of the administrative rulemaking process that provide for accountability, transparency, and thorough evaluation.

Federal agency rules are governed by the Administrative Procedure Act, which generally requires an agency to publish a notice of a rulemaking, take comments from the public, and establish an effective date for a rule. Notice and comment is a vital step in the process because it gives individuals and businesses subject to rulemakings the opportunity to provide feedback on the practical effect of a rule's implementation, and it allows an agency to adjust the rule as necessary to avoid any undue consumer harm. In contrast, bulletins generally do not afford the public an opportunity to lend their voice to the process and have historically been used by Federal agencies to simply restate existing law to aid covered companies' compliance.

The CFPB's indirect auto bulletin represents a departure from typical Federal agency practice, as reflected in the GAO's conclusion that it is a rule subject to CRA requirements.

Without the opportunity for public comment and the ability for the bulletin to be revised to avoid any unintended consequences, auto dealers' incentive to act as an intermediary has been greatly diminished. As a result, consumers will be inconvenienced and have fewer and more expensive financing options when shopping for a vehicle.

Some people opposed to this resolution are concerned about what this means for regulatory guidance more generally. I would note that almost all guidance issued by agencies may qualify as a rule under the Congressional Review Act and must be submitted to Congress for potential disapproval. The CRA's definition of a rule includes, with some limited exceptions, ''the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.''

Explaining the Congressional Review Act's definition of a rule, the GAO said: ''This definition is broad, and includes both rules requiring notice and comment rulemaking and those that do not, such as general statements of policy.''

This particular bulletin, according to GAO, ''advises the public prospectively of the manner in which the CFPB proposes to exercise its discretionary enforcement power and fits squarely within the Supreme Court's definition of a statement of policy.''

Congress has the power to overturn any agency rule. Under the Congressional Review Act, Congress has the power to overturn agency rules using an expedited procedure. There is nothing special about guidance issued by the agencies that should cause people to be concerned, especially a rule masquerading as guidance. Article I grants Congress legislative power, and by disapproving this rule, we are ensuring that the CFPB cannot issue a rule that is substantially the same as the one it just tried to issue.

There have also been questions raised regarding the flawed methodology the CFPB used in its supervisory and enforcement activities based on this bulletin to allege discriminatory auto loan pricing.

In November 2015, the House Financial Services Committee's majority staff issued a report exploring the CFPB's approach to enforcing the ECOA against indirect auto lenders. The report focuses on the controversial use of disparate impact theory and the CFPB's use of a flawed statistical methodology, which only takes into account an individual's last name and ZIP Code in order to determine a probability for race and ethnicity. This approach is less reliable than other, more proven methodologies. A November 2014 study estimated that only 24 percent of African Americans and 50 percent of Asians were correctly identified using this methodology.

In light of such significant concerns, the House introduced legislation in 2015 to nullify the effect of the bulletin and place guardrails around the development of any future indirect auto lending guidance. That bill garnered significant bipartisan support, passing the House by a vote of 332 to 96, including 88 Democrats.

This resolution has attracted substantial support, as well, including from 12 different organizations involved with helping consumers buy a vehicle and an endorsement via a Statement of Administration Policy from the White House.

For example, the chamber of commerce notes that ''internal documents [at the CFPB] demonstrate that even [CFPB] Bureau staff found the data and methodology intended to support the rule 'unconvincing.'''

The Independent Community Bankers of America notes that ''since the issuance of the Bulletin, many community bankers have reported added difficulty in meeting the varying borrowing needs of their customers based on confusing and overly-burdensome guidance.''

The National Association of Auto Dealers notes that ''extensive bipartisan congressional engagement has identified several reasons to disapprove the CFPB rule/guidance, including a lack of due process, concerns about the CFPB's failure to adhere to Section 1029 of Dodd-Frank, and the negative impact on consumers and small business dealers.''

The American Bankers Association said that ''the regulatory and enforcement uncertainty caused by this Guidance has caused many banks to exit or to curtail their indirect auto lending, which limits consumer choice and increases the cost of credit.''

The American Financial Services Association said that ''the guidance is harmful because it pressures vehicle finance companies to limit consumers' ability to receive discounted auto loans from dealers. Furthermore, the guidance threatens to raise credit costs and push marginally creditworthy consumers out of the vehicle financing market, and has the potential to harm the vehicle industry and its associated U.S. jobs.''

Mr. President, I ask unanimous consent that the five letters I cited be printed in the RECORD, as well as a joint letter from the National Auto Dealers Association, the National RV Dealers Association, the American International Automobile Dealers, the Auto Alliance, the National Independent Automobile Dealers Association, the National Auto Auction Association, the American Financial Services Association, the Recreational Vehicle Industry Association, and the Motorcycle Industry Council, all expressing their strong support for S.J. Res. 57.

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

AMERICAN FINANCIAL SERVICES ASSOCIATION,
Washington, DC, April 13, 2018.

DEAR SENATOR: The American Financial Services Association (AFSA) writes to express our strong support for S.J. Res. 57, which would rescind the Consumer Financial Protection Bureau's (CFPB) 2013 vehicle finance guidance. The guidance is harmful to American consumers and businesses, and the CFPB acted without accountability in its issuance of the guidance.

The guidance is harmful because it pressures vehicle finance companies to limit consumers' ability to receive discounted auto loans from dealers. Furthermore, the guidance threatens to raise credit costs and push marginally creditworthy consumers out of the vehicle financing market, and has the potential to harm the vehicle industry and its associated U.S. jobs.

The Bureau issued the guidance without any public comment, consultation with CFPB's sister agencies, or transparency. The CFPB issued the policy, which directed fundamental market changes, without a transparent rulemaking process to assess the impact on consumers.

In the 114th Congress, the House overwhelming approved H.R. 1737, the ''Reforming CFPB Indirect Auto Financing Guidance Act,'' a bill rejecting the vehicle finance guidance similar to S.J. Res 57. The legislation passed the House by a bipartisan vote of 332–96, including 88 Democrats.

S.J. Res. 57 is a narrow resolution that preserves fair lending protections. It does not hinder enforcement of fair lending laws or regulations, which AFSA and its members strongly support. In fact, even the House Financial Services Committee minority report accompanying H.R. 1737 stated that, ''H.R. 1737 does not alter regulated entities' obligations under the Equal Credit Opportunity Act (ECOA) or the CFPB's examination or enforcement activity pursuant to ECOA.'' Proponents of S.J. Res. 57 take fair credit laws very seriously, and the resolution protects these laws and their enforcement to safeguard equal opportunity in vehicle financing.

Please lend your support S.J. Res. 57, both as a cosponsor and an affirmative vote on the Senate floor. If you need more information, please contact me.

Sincerely,

BILL HIMPLER,
Executive Vice President, American Financial Services Association.

NATIONAL AUTOMOTIVE DEALERS ASSOCIATION,
Tysons, VA, April 13, 2018.

Hon. MITCH MCCONNELL,
Majority Leader, U.S. Senate, Washington, DC.
Hon. CHARLES SCHUMER,
Minority Leader, U.S. Senate, Washington, DC.

DEAR LEADER MCCONNELL AND LEADER SCHUMER: On behalf of America's 16,500 franchised new car and truck dealers and the 1.1 million people they employ, I am writing in strong support of S.J. Res. 57, a joint resolution providing for Congressional disapproval of the rule by the Consumer Financial Protection Bureau (CFPB) relating to indirect auto lending. Despite Congress exempting most auto dealers from the CFPB's jurisdiction under Section 1029 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB's rule, issued as ''guidance,'' operates to reduce market competition and take away a consumer's ability to receive a discounted auto loan in the showroom. Access to affordable credit is essential to consumers, and the ability of a dealer to discount credit is often necessary to meet auto buyers' needs.

S.J. Res. 57 is a narrowly-tailored joint resolution that does not amend or change any fair credit law or regulation or impair their enforcement. The legislation is a measured response to the CFPB's attempt to regulate the $1.1 trillion auto financing market, avoid congressional scrutiny by issuing ''guidance,'' and impose a new policy without necessary procedural safeguards.

Congress has considered this issue thoroughly during the past several years through oversight and legislative action. The Senate Banking, Housing and Urban Affairs Committee raised the matter during two CFPB oversight hearings. Moreover, by an overwhelmingly bipartisan vote of 332–96, including 88 Democrats, in 2015 the House passed H.R. 1737, the ''Reforming CFPB Indirect Auto Financing Guidance Act,'' which would have rescinded the CFPB auto finance guidance.

The extensive bipartisan congressional engagement has identified several reasons to disapprove the CFPB rule/guidance, including a lack of due process, concerns about the CFPB's failure to adhere to Section 1029 of Dodd-Frank, and the negative impact on consumers and small business dealers. In particular:

The rule/guidance was issued without any prior notice, opportunity for public comment, or consultation with the federal agencies Congress authorized to regulate dealers.

Indirect auto lenders were pressured by the rule/guidance to eliminate a consumer's ability to receive a discount on auto credit by a dealer, which would have fundamentally altered the entire auto finance market. This new policy would have limited market competition, raised credit costs for auto buyers, and thereby pushed some marginally creditworthy borrowers out of the credit market. The CFPB admitted to the Senate that it did not analyze the impact of the rule/guidance on consumers.

Despite Congress' clear determination in Dodd-Frank to place regulatory oversight of auto retailers with the Federal Reserve Board, Federal Trade Commission and Department of Justice (DOJ), the rule/guidance assumed the CFPB could unilaterally assert jurisdiction over dealer discounts and the manner of dealer compensation for auto credit.

The rule/guidance was based on a flawed method for identifying the background of consumers that relied solely on a borrower's zip code and last name. A non-partisan study of the CFPB's policy found a 41 percent error rate for classifying the background of a significant group of consumers, and even the CFPB's own review revealed a 20 percent error rate for the same group. (This non-partisan study was never rebutted by the CFPB.)

The rule/guidance failed to account for legitimate business factors that can affect finance rates (such as discounting a rate due to the presence of a competing offer or to accommodate a consumer's monthly budget constraint) to ensure that borrowers being compared are similarly situated.

The auto industry takes fair credit laws very seriously and strongly condemns discrimination. In furtherance of this commitment, NADA, joined by the other national dealer associations, developed and continues to promote a voluntary fair-credit compliance program, based on an effective DOJ model that preserves consumer discounts on credit for legitimate business reasons. Unfortunately, the CFPB, refusing to work with the Federal regulators that have jurisdiction over dealers, failed to adopt the DOJ-based fair credit alternative as an appropriate method to mitigate fair credit risks in indirect auto lending.

Enactment of S.J. Res. 57 is important to keep auto loans affordable and accessible for consumers. America's franchised auto dealers urge a ''Yes'' vote on S.J. Res. 57 should it be considered by the Senate. Thank you for your consideration.

Sincerely,

PETER K. WELCH,
President and CEO.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, April 17, 2018.

Hon. MITCH MCCONNELL,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. CHARLES SCHUMER,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER MCCONNELL AND MINORITY LEADER SCHUMER: On behalf of the members of the American Bankers Association (ABA), I write to express our support for S. J. Res. 57, a resolution to disapprove BCFP Bulletin No. 2013–02, ''Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act'' (Bulletin).

According to the statements of the Bureau of Consumer Financial Protection (Bureau) at the time of issue, the Bulletin was to provide lenders with fair lending compliance ''guidance'' in situations when lenders permit automobile dealers flexibility to set automobile loan interest rates. In practice, however, the Bulletin was applied as far more than guidance, asserting with regulatory effect, highly controversial legal theories and methodologies to allege that banks and finance companies that purchase motor vehicle installment sales contracts may be liable under the Equal Credit Opportunity Act (ECOA) for purported, but undemonstrated racial disparities in the interest rates that the automobile dealers charged consumers.

ABA strongly believes that every automobile customer deserves to be treated fairly, and that there is no room for illegal discrimination of any kind in automobile financing. However, the Bulletin was issued without the opportunity for public comment on its legal underpinnings, critical review of its assumption and bases, and its impact on consumer access to convenient and affordable credit.

The regulatory and enforcement uncertainty caused by this Guidance has caused many banks to exit or curtail their indirect auto lending, which limits consumer choice and increases the cost of credit.

ABA urges the Senate to adopt S.J. Res. 57.

Sincerely,

JAMES C. BALLENTINE.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, April 17, 2018.

TO MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce urges you to support S.J. Res. 57, a Congressional Review Act resolution to undo the Bureau of Consumer Financial Protection's action on indirect auto lending. The Chamber will consider including votes on, or in relation to, S.J. Res. 57 in our How They Voted scorecard.

In 2013, the Bureau issued a ''Bulletin'' that imposed new requirements under the Equal Credit Opportunity Act (ECOA) to address purported discrimination. The Bulletin established that indirect lenders—firms that are never face-to-face with borrowers and only purchase contracts after-the-fact from auto dealers—could be liable for discrimination.

The Chamber abhors discrimination in all its forms, including in the financial service and auto lending sectors.

However, the Bureau provided little concrete evidence of problems that the Bulletin was intended to address. In fact, internal documents demonstrate that even Bureau staff found the data and methodology intended to support the rule ''unconvincing.''

We thank Senator Moran and Senator Toomey for their leadership to resolve this overreach by the Bureau and for engaging the Government Accountability Office (GAO), which determined on December 5, 2017, that the Bulletin is in fact a ''rule'' for purposes of the Congressional Review Act.

Moreover, we applaud the work of the House Financial Services Committee, which released three reports on the topic.

The Chamber believes the Bureau—like all other federal agencies—should follow the Administrative Procedure Act when issuing guidance and promulgating regulations. Agency actions should be based on clear legislative authority, solid data, and proper public input. That is why the Chamber strongly supports the Portman-Heitkamp ''Regulatory Accountability Act,'' which would modernize the rulemaking and guidance processes for the first time since 1946.

The Chamber urges you to reject the Bureau's Bulletin and to support S.J. Res. 57.

Sincerely,

JACK HOWARD,
Senior Vice President,
Congressional and Public Affairs.

INDEPENDENT COMMUNITY
BANKERS OF AMERICAN®,
Washington, DC, April 17, 2018.

Hon. MITCH MCCONNELL,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. CHARLES E. SCHUMER,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER MCCONNELL AND MINORITY LEADER SCHUMER: On behalf of the nearly 5,700 community banks represented by ICBA, I write today to urge all members of the Senate to support S.J. Res. 57, a joint resolution under the Congressional Review Act (CRA) introduced by Sen. Jerry Moran (R–Kan.) to overturn the Consumer Financial Protection Bureau's (CFPB) 2013 auto finance guidance set forth in CFPB Bulletin 2013–02, titled ''Indirect Auto Lending and Compliance with the Equal Credit Opportunity'' (Bulletin).

S.J. Res. 57 follows the U.S. Government Accountability Office's (GAO's) determination that the ''guidance'' outlined in the Bulletin is a ''rule'' subject to CRA. Sen. Pat Toomey (R-Pa.) requested that GAO determine whether the Bulletin was subject to CRA. Since the issuance of the Bulletin, many community bankers have reported added difficulty in meeting the varying borrowing needs of their customers based on confusing and overly-burdensome guidance. For this reason, ICBA supports this effort to overturn this harmful guidance administered by the CFPB.

ICBA and America's community banks thank you for your consideration.

Sincerely,

CAMDEN R. FINE,
President & CEO.

NADA, AUTO ALLIANCE, AMERICAN FINANCIAL SERVICES ASSOCIATION, THE NATIONAL RV DEALERS ASSOCIATION, NATIONAL INDEPENDENT AUTOMOTIVE DEALERS ASSOCIATION, RECREATION VEHICLE INDUSTRY ASSOCIATION, AMERICAN INTERNATIONAL AUTOMOTIVE DEALERS, NATIONAL AUTO AUCTION ASSOCIATION, MOTORCYCLE INDUSTRY COUNCIL.

April 16, 2018.

DEAR SENATOR: We, the undersigned organizations which represent businesses that make, sell, finance, auction and service vehicles are writing to express our strong support for S.J. Res. 57, a joint resolution to disapprove the Consumer Financial Protection Bureau's (CFPB) 2013 auto finance guidance. The CFPB guidance pressures indirect auto lenders to limit a consumer's ability to receive a discounted auto loan from a dealer, resulting in less competition, higher financing rates, and loss of credit access for many vehicle buyers.

Access to affordable credit, including a dealer's ability to discount credit, is essential to meet the transportation needs of our customers. Since more than 80 percent of vehicle purchases are financed, adequate retail credit is vital to facilitate vehicle sales. The current system benefits consumers as dealers' access to multiple lending institutions frequently allows dealers to help consumers, including the marginally credit worthy who often have limited options, secure financing at competitive interest rates.

The CFPB auto lending policy, issued through a guidance, directed fundamental market changes without a transparent rulemaking process to assess the impact on consumers. This guidance was issued without any public comment, consultation with CFPB's sister agencies (including those that Congress authorized to regulate auto dealers), or transparency. Indeed, by the CFPB's own admission, the agency did not study the impact of its guidance on consumers.

This controversial guidance also enabled the agency to skirt Congress' express prohibition on its exercise of authority over auto, recreational vehicle, and motorcycle retailers engaged in indirect lending, (Sec. 1029(a) of Dodd-Frank). Under the Dodd-Frank law dealers continue to be regulated by that Federal Reserve Board, Federal Trade Commission and Department of Justice, as well as rigorous state laws and regulations.

The auto industry takes fair credit laws extremely seriously and has proactively promoted a comprehensive compliance program to enhance fair credit lending. Under the Department of Justice (DOJ) modeled program, a dealer can reduce the consumer's APR by documenting one of seven ''legitimate business reasons'' identified by the DOJ as a legitimate reason for a dealer to discount credit. Legitimate business reasons include ''meeting or beating'' a competitive offer that is available to the customer from another dealer or lender. Preserving this vigorously competitive market for vehicle financing lowers the cost of auto credit for consumers across the board. When Congress created the CFPB, surely it did not intend the agency to use its power to stop vehicle retailers from offering consumers discounts.

In a rejection of the auto finance guidance, last Congress the House overwhelming approved a bill similar to S.J. Res. 57, H.R. 1737, the ''Reforming CFPB Indirect Auto Financing Guidance Act.'' H.R. 1737, which would have rescinded the guidance, passed by a bipartisan vote of 332-96, including 88 Democrats (November 18, 2015).

Despite the House's overwhelmingly bipartisan approval of the legislation and additional bipartisan efforts in the Senate to seek a resolution on this issue, the CFPB rebuffed extensive industry efforts to work together to fashion a solution that would preserve discounted auto loans by dealers within the parameters of the DOJ-based model. In addition, the CFPB continued to pressure finance sources to limit a dealer's ability to discount credit based on a deeply flawed method for measuring lender compliance with fair lending laws.

S.J. Res. 57 is narrow and purely a process resolution that preserves fair lending protections and does not hinder enforcement of fair lending laws or regulations. In fact, even the House Financial Services Committee minority report accompanying H.R. 1737 stated that ''H.R. 1737 does not alter regulated entities' obligations under the Equal Credit Opportunity Act (ECOA) or the CFPB's examination or enforcement activity pursuant to ECOA.'' Proponents of S.J. Res. 57 take fair credit laws very seriously, and this joint resolution protects these laws and their enforcement to safeguard equal opportunity in vehicle financing.

Senators should disapprove the auto finance guidance that operates to eliminate dealer discounts, threatens to raise credit costs and push marginally creditworthy consumers out of the vehicle financing market, and harms the vehicle industry and its associated U.S. jobs. Vehicle sales play an important role in the economy, as they constitute almost 20 percent of all retail spending in the U.S. Nationwide the vehicle industry provides jobs for more than 7 million workers and their families. It is in the best interest of consumers, dealers, and vehicle manufacturers to keep vehicle financing competitive and affordable.

Keeping auto financing competitive and affordable is not only warranted, it is essential for the vehicle industry and its customers. That is why similar legislation easily passed the House, and why the Senate should pass S.J. Res. 57.

Mr. CRAPO. Finally, President Trump's Statement of Administration Policy also endorses this resolution. I am going to read a few highlights from the statement.

This bulletin limits the ability of auto dealers to offer auto loans to their customers and was not issued pursuant to notice-and-comment rulemaking. As a result, the CFPB failed to allow the public to comment before it made significant changes to an important sector of the economy. Dodd-Frank explicitly excludes the regulation of auto dealers from the CFPB's jurisdiction. Disapproving this bulletin, therefore, would provide consumers with more options for auto financing while ensuring that the CFPB abides by congressional limits on its jurisdiction.

This rule should be disapproved, and any future action on the matter should go through the appropriate rulemaking process established by Congress. If this rule stands, banks, credit unions, and finance companies holding nearly $1.1 trillion in outstanding loans will needlessly face significant liability, and the ability of auto dealers to play a valuable role by matching buyers and lenders will be diminished.

I urge my colleagues to support 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. MORAN. 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. MORAN. Mr. President, I am here to lend my support to a measure that I have had the honor of working on with the Senator from Pennsylvania, Mr. TOOMEY, and I have worked side by side with the chairman of the Banking Committee—of which I am a member—the Senator from Idaho, Mr. CRAPO. I very much appreciate the leadership that both of those individuals and my other colleagues have provided over a long period of time on this issue.

Dodd-Frank was passed as a result of the concerns that many had across the country and here in the Congress regarding the financial challenges that our Nation faced resulting from mortgages that were sold. It really was a Wall Street crisis that, in so many ways, became challenging for Main Street, with Main Street having the consequence of having the difficulties presented to them based upon what happened on Wall Street, and in so many instances, consumers ended up paying the price. But as we tried to correct the problem when Dodd-Frank was passed, it got way beyond the culprits—those who were culpable for creating the financial crisis in our Nation—and began to penalize those who had nothing to do with them.

One of the creatures of the passage of Dodd-Frank was the Consumer Financial Protection Bureau, and one of the aspects of the Consumer Financial Protection Bureau was their effort to regulate indirect auto lending.

I think the chairman, the Senator from Idaho, did a great job of explaining this resolution. Today, we have the authority to reject the decision that was made by the Consumer Financial Protect Bureau, and I hope my colleagues will join me in doing so. I have introduced this resolution to accomplish that.

Senator TOOMEY has made clear by his efforts that this guidance that was issued by the Consumer Financial Protection Bureau is subject to a CRA, and that is our mission today—to accomplish the passage of that CRA.

While the chairman was speaking, I jotted down perhaps four or five points that I would like to make to my colleagues. One is that those who lend money to someone buying an automobile had nothing to do with the financial collapse that occurred as a result of the mortgage crisis in 2007 and 2008.

I think Republicans probably made a mistake—I could take out the political word ''probably.'' Republicans made a mistake in saying ''We are going to repeal Dodd-Frank,'' and Democrats responded by saying ''You are never going to touch Dodd-Frank.'' As a result, since 2008, we have been unable to correct, in a bipartisan way, the problems that many of us saw with Dodd-Frank. There are those who say ''We are going to get rid of the entire thing,'' and those who say ''You can't touch it.'' Therefore, the consumers—the citizens of this country—have struggled and been damaged by the consequences of Dodd-Frank.

Today we are dealing with a specific provision, and that is the indirect automobile lending—a circumstance in which financing is arranged by someone who sells an automobile in their business to make the deal work for the consumer who wants to buy the automobile.

I would outline these five points: First of all, this ought to be a relatively easy decision because automobile dealers are specifically excluded from the provisions of Dodd-Frank. So, in my view, the Consumer Financial Protection Bureau had to work its magic to try to find a way to regulate the financing of automobiles that were arranged for by the automobile dealer in contravention to the law which says that automobile dealers are not covered by it.

I was not in the Senate at the time this amendment was offered. It was offered here in the U.S. Senate by my predecessor, Senator Brownback, and adopted as a provision in Dodd-Frank. It is very specific.

I just read the language of the exemption, the exclusion, before I came on the Senate floor. Again, it says that automobile dealers are excluded from the provisions of Dodd-Frank. Yet the Consumer Financial Protection Bureau found a way to get around direct law and, in that sense, the intent of the U.S. Senate and the House of Representatives when they passed Dodd-Frank. So just on its face, we ought to decide that the CRA is worth supporting because we are really reaffirming the decision that was made when Dodd-Frank was passed.

Second, the process the Consumer Financial Protection Bureau used—they didn't draft a rule and go through the rulemaking process, and they didn't put anything out for comment by the industry that would be affected or by the consumers who may pay more as a result of the passage or the enactment of this guidance. But they created something that regulatory bodies often do and tried to provide—the word is ''guidance.'' What they say they are doing is providing direction, without passing a rule, to those who might be affected by the rule, but as a result of just using guidance, no input was solicited, no input therefore could be given, and the Administrative Procedure Act was avoided.

I remember the Director of the Consumer Financial Protection Bureau was in front of the Banking Committee when he was asked: How can this be? His answer was simply: This is guidance, and the Administrative Procedure Act doesn't apply. Yet, as we have seen, the GAO has recently concluded that this is the same outcome, the same result as rulemaking would be and therefore subject to the CRA.

What that highlights for me is, in two instances already, the CFPB finagled and created a way to get to an outcome they wanted without following, in this case, the Administrative Procedure Act and, secondly, in violation of the statutory prohibition against having anything to do with automobile dealers. So for those two reasons, we ought to be opposed to the guidance that was directed to the automobile dealers and those who lend money at the direction of those automobile dealers.

The third item I would raise is what this guidance is designed to do is to prevent discrimination. What they claimed they were doing was to make certain that interest rates do not differ based upon a person's race. If that were the desired outcome, I would have no qualms. But because you can't ask a person's race, there is no way to know. So what the Consumer Financial Protection Bureau did was to create a computer program, an algorithm, in which they guessed what a person's race was based upon their last name—how it sounds—and, secondly, on their ZIP Code. Never was the Consumer Financial Protection Bureau able to provide the evidence that anyone had been discriminated against, only that if you use a computer program and run a bunch of numbers through it, the algorithm, based upon what a person's name sounds like—which I guess, in my mind, is discrimination in and of itself—and, secondly, the ZIP Code—perhaps the same thing could be said about that—determine what race a person is or was.

So the methods by which the Consumer Financial Protection Bureau determined discrimination were flawed. In fact, a bipartisan report indicated that 41 percent of the determinations were inaccurate, so not quite half of every time the algorithm guessed what the race of a borrower was, it was wrong. Yet that apparently was sufficient for the CFPB to believe they had a basis to determine whether someone was discriminated against.

I can't imagine that many Americans would find it comforting to know that only a computer program determines what somebody believes their race is, again, based upon a hypothetical and not upon actual facts.

Again, the method by which the guidance was used to determine discrimination was significantly flawed and a process in which I can't believe many Americans would find comfort.

What I would say, finally, is that elimination of the guidance—passage of the CRA today—would not do anything to change the prohibition against discrimination. It is not that if the CRA is adopted that discrimination now becomes legal; in fact, we all can agree that discrimination has no place in our society or in our economy. But the absence of this CFPB guidance does not make discrimination legal. It does not amend or modify the Equal Credit Opportunity Act nor does it change regulation B, which allows for enforcement of that act.

What we are trying to do is correct the mistakes by the Consumer Financial Protection Bureau under Dodd-Frank, which says that you can't deal with automobile dealers, correct the problems that the Consumer Financial Protection Bureau created by using an algorithm to determine discrimination, and at the same time, not do anything to change the prohibition, the illegality of discriminating against a person based upon that person's race.

Also, I think we can easily make the case that this kind of guidance, this effort by the Consumer Financial Protection Bureau, causes damage to the consumer, who therefore will not get the benefit of an appropriate rate of interest because of the fear of this guidance, which then, ultimately, results in just a standard interest rate for everyone.

Today we have the opportunity to correct a problem that was created in contravention of a law that used a flawed method to determine whether a person was discriminated against and to improve the circumstances that consumers face at a time in which every dime matters, so we should see improvement in the opportunities for people to borrow money and to buy an automobile for the benefit of themselves and their families.

I hope that my colleagues will join me, as they did on the motion to proceed, and that this CRA will be adopted over the next day or so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I rise in opposition to the motion. This is my second day in a row being on the opposite side of my friend Senator MORAN and Senator CRAPO, too, for that matter, but you have to do what you have to do.

Over the last year and a half, as we have seen time after time after time, Republicans in this Congress have made it pretty clear to the American people whose side they are on. They have used the Congressional Review Act—something nobody at home really knows about and something most of us didn't know anything about until we began to see at the White House these executive retreats every weekend for Wall Street executives. They have used the Congressional Review Act more than any other Congress in history to give handouts to big corporations at the expense of ordinary Americans.

It is not enough for Republican legislators to go to Senator MCCONNELL's office down the hall and cut deals giving tax cuts to the richest people in the country and giving tax breaks to General Motors, which promised that if tax cuts were given to the largest corporations in America, they were going to raise wages and hire more people.

Well, GM just announced—to its everlasting discredit—hundreds of layoffs at its Lordstown plant near Youngstown, OH. Hundreds and hundreds of people were laid off, perhaps permanently. We don't know, but the signs aren't good. At the same time, General Motors in Toledo, because they make the transmissions for the Chevy Cruze in Youngstown, are laying people off. And then the Ohio Turnpike from Toledo to Youngstown, this long Ohio turnpike—one of the centers of the American auto industry—we will probably see layoffs in the supply chain. Even though they got a huge tax cut, written in the office down the hall, in Majority Leader MCCONNELL's office—they got a huge tax cut and lots of money in their pockets. What do they do? They mostly do corporate buybacks and stock buybacks. They share this money with their biggest stockholders.

So that is what happened with the tax cut. Now they are giving another handout to a big corporation at the expense of Americans. It is bad enough that we are considering this Congressional Review Act piece of legislation. We are considering a bill that would tell Wall Street banks and shady lenders that it is OK to discriminate against borrowers.

Somebody who looks like me can go to a car dealership and get a loan when they decide they are going to buy a Chevy Cruze. My wife and I have each bought a Chevy Cruze. I am going to go finance a Chevy Cruze, and I get a certain interest rate. We have seen data that shows that if somebody looks a little different from me—if they are African American, Latina, Asian American, or Pacific Islanders—they pay a higher interest rate. We know that is what the data says. But this body—from the last vote, it is pretty clear—they say that is all right, that if the dealer wants to charge higher interest rates to people of color, that is OK.

So it is bad enough that we are saying today and this body is giving its stamp of approval saying that it is OK to discriminate and to charge higher interest rates to people of color. I have said this in the Banking Committee before, and Senator CRAPO has heard me say this many times: The ZIP Code where my wife and I live in Cleveland, OH, had more foreclosures than any ZIP Code in the United States of America. There are reasons for that. Part of the reasons for that is who lives in my ZIP Code, mostly.

But it is not just that which today's legislation would do. It threatens thousands more protections for workers and families that are vulnerable to repeal by Congress.

Republicans have used the Congressional Review Act to repeal important rules that would have given low-wage workers access to retirement plans. So here in the Senate, we talk about caring about workers, we talk about the dignity of work, and we talk about helping people save for the future, but one of the provisions of the Congressional Review Act would have given low-wage workers access to retirement plans, and this legislation takes it away.

One of the other rules that were rolled back ensured that Federal contract employers had protections for their workers regardless of race, regardless of gender, regardless of sexual orientation. It ensured that women had the right to choose their own healthcare provider regardless of their form of insurance.

The Congressional Review Act repeals all of those rules.

They repealed the rule that would have guaranteed customers the right to a day in court when they were ripped off by a bank like Wells Fargo. Wells Fargo has a whole rap sheet of ripping off their customers. But we in this body said: Well, you shouldn't have done that, Mr. and Mrs. Wells Fargo, but we are going to let you do that on individual contracts.

So if you are wronged by Wells Fargo or any of these other big financial institutions, you don't get a day in court, sorry. That is what this body did.

It is the same with Equifax. We know what Equifax did. Equifax violated the privacy of pretty much half the people in North Dakota or Idaho or Ohio or in this whole country, but we said: That is OK, Equifax; just try not to do it again; and we let them off the hook.

Fortunately, too much time has passed for Congress to use the Congressional Review Act to roll back other protections the last administration put in place, but they now want to open up a whole new idea. They want to use a legal loophole to interfere with potentially thousands more Federal decisions, potentially going back as far as 20 years.

In order to clarify how laws work, Federal agencies—this is really in the weeds, but you know we have some pretty smart people here who figure out how to go in the weeds and find loopholes and exploit people and, frankly, hurt the little guy. Whether she works in construction or punches a time clock or works as a waitress in a diner in Garfield Heights, they find ways to screw the little guy.

So here is how it works. Federal agencies issue guidance to help people understand how the law protects them and to help businesses understand how to follow the law. Just last week, some of these smart people—my Republican colleagues—at a hearing decried the practice of enforcing the law without providing guidance in advance. This week, though—this week—some of those same smart Republicans want to start nullifying agency guidance, which would completely up-end the Federal programs that families depend on. And this is an anti-business decision, too, on their part. The businesses want the predictability, they want the certainty so they can follow the rules.

Under this crazy new plan, some of these very smart Republicans—and at least one of them is on the Banking Committee—under this new plan, they can ban Federal agencies from explaining how States administer Federal health insurance programs, programs like the Children's Health Insurance Program. They can undermine requirements to make sure that federally funded projects pay the local prevailing wages.

Today I went to breakfast with a number of iron workers and glaziers and laborers and electricians and pipe fitters and others who work with their hands and make a damn good living, with good benefits and good retirement for their families. You know what. They can use this newfound rule that these very smart Republican legislators figured out how to exploit to undermine pay and beat back local prevailing wage laws.

Republicans have used the Congressional Review Act to attack access to healthcare and worker and environmental protections. So it is no stretch. They have done it before. It is no stretch that they would do it again, only now there would be no limits on the types of agency actions they can target because they found this loophole and they can go back 20 years. The one we are working on today was handed down—this agency guidance was handed down in 2013.

So one of the first things Republicans want to do with this—they are just so excited with this new loophole—they found that they can go after people who don't have good lobbyists in Washington. They can go after people who won't contribute to their campaign. They can go after people who, frankly, struggle every day just to make a living in this country.

What is the first thing they do? They make car loans—it is clear what happens. They make car loans more expensive for women and for people of color. The bill sends a message to lenders across the country that if you are legally discriminating, go ahead, we are not going to stop you.

We created the Consumer Financial Protection Bureau to police Wall Street banks and other shady lenders who ripped off working families. Under its last Director, the Bureau returned $12 billion to 29 million Americans who had been ripped off by payday lenders and credit card companies and for-profit colleges.

The Consumer Financial Protection Bureau used to be a cop on the beat to protect consumers. We want a consumer bureau because we have the banks—$1 trillion, $2 trillion; Bank of America, JPMorgan Chase, Wells Fargo—these banks are trillion-dollar banks, some of them $2 trillion. So we have the banks here, and we have a lot of consumers who don't have a union or any protection, and they sign these contracts for a loan or something, and they don't really know what the fine print says. So that is why we have a consumer bureau—to protect those people.

Twenty-nine million Americans have benefited from it just since its creation less than a decade ago, and they have saved $12 billion. It used to be a cop on the beat. It used to issue reports warning consumers about industries that weren't following the law. It brought tough enforcement actions. It identified discriminatory lending practices in auto loans and home mortgages.

We know discrimination is still a major problem for people of color who make the biggest investment of their lives: their house and their car—their house and their car, their two biggest investments, and you can legally discriminate in this country because of the way somebody looks. You can discriminate against them because of race, and now we are saying it is OK.

Look at what has happened in this country because they said that. Just a few months ago, the Center for Investigative Reporting released a report showing that redlining is still a problem in big American cities to this day. The National Fair Housing Alliance conducted tests and demonstrated that people of color were systematically offered worse loan terms for cars than White borrowers with the exact same credit seeking to purchase the exact same vehicle. But instead of working to root out this discrimination—you would think that is what we would all do, Republicans and Democrats alike. Instead, we are making it easier for banks to turn customers away or to take advantage of them based on the color of their skin. This is 2018, for gosh sakes. Why would we still be doing that?

This repeal could permanently weaken Federal anti-discrimination laws. These laws have been the law of the land for decades. These are the laws that brave Americans fought for during the civil rights movement. Do you remember when Congress passed the fair housing bill? The fair housing bill was passed a week after Dr. King's assassination, 50 years ago last week. You would think we would want to strengthen it, not weaken it.

I ask unanimous consent to have printed in the RECORD letters from the scores of civil rights and consumer and environmental and other organizations that vehemently oppose this legislation.

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

APRIL 16, 2018.

The undersigned organizations are strongly united in opposition to S.J. Resolution 57, sponsored by Sen. Moran (R–KS), which attempts to use the Congressional Review Act (CRA) to target regulatory actions by federal agencies that were issued well in the past and have been in effect for years or potentially even decades. We vigorously oppose any attempt by the Senate to subject the ''Bulletin on Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act''—issued by the Consumer Financial Protection Bureau (CFPB) in 2013—to a vote under the CRA. Many of us oppose repealing this important guidance on substantive grounds, but we join together today to focus instead on the procedural issue of using the CRA against a guidance that has been in place for years.

We oppose such a vote, as it would contravene the clear intent of the CRA to allow Congress to review and challenge recently finalized agency actions. This would set a dangerous precedent that would open the door for Congress to stretch the CRA to challenge a wide variety of settled agency actions that have been in effect for years or decades, particularly ''guidance documents'' that are not only crucial to protecting workers, consumers, minorities, the environment, and the economy but also to providing regulatory certainty for businesses and the public. Using the CRA, rather than regular legislative order, to attack years-old established guidance would be an extraordinary and egregious abuse of normal process—exactly the kind of rigged action on behalf of narrow corporate insiders that so infuriates Americans of all political stripes.

This Congress has already used the CRA in unprecedented fashion to repeal fourteen common-sense, carefully developed regulations that protect the public, including measures to protect internet privacy, women's health, retirement security, workplace safety, fair pay in the workplace, the environment and clean water, anti-corruption safeguards, and sensible gun control. Unlike the normal legislative process, the CRA is already problematic legislation which gives Congress the ability to strike down regulations that protect the public on behalf of narrow special interests without any congressional hearings and virtually no floor debate. The appropriate response would be for Congress to revisit this flawed process rather than expand it to undermine policies that were finalized long ago.

Applying the CRA to settled agency actions from the past would violate the clear intent and spirit of the law. The legislative history of the CRA makes plain its purpose: ''this legislation establishes a government wide congressional review mechanism for most new rules.'' As a procedural matter, Congress could have, and more appropriately should have, reviewed the guidance at issue here back in 2013 when it was issued by the CFPB, requested a GAO opinion at that time to determine its eligibility under the CRA and potentially used the CRA to challenge such guidance shortly after its issuance in 2013. Indeed, Congress has made multiple GAO requests regarding the applicability of the CRA to guidance documents when the guidance was originally issued or shortly thereafter. Subjecting these actions to the CRA now would fly in the face of congressional intent and stretch the law in ways that were neither anticipated nor expected by those who voted for it.

Moreover, it raises suspicions that this CRA challenge is being undertaken now, rather than following the issuance of the guidance in 2013, because there is a higher chance of success given the makeup of this Congress.

Moreover, applying the CRA to long-established guidance would be, simply put, wrongheaded. Guidance documents are often specifically requested by regulated entities and industry stakeholders in order to resolve uncertainties in the application of regulations to stakeholder business practices, including in the form of so-called ''No Action Letters''. Using the CRA to repeal guidance documents would imperil numerous past guidance documents that were not submitted to Congress under the CRA, including many that were specifically requested by regulated entities or stakeholders. Congress should act with caution, if at all, in using the CRA on guidance documents, but applying the CRA to longstanding guidance would be misguided.

Long-established guidance is not locked into place; when appropriate, it is a relatively simple matter for agencies to revise or repeal longstanding guidance. In fact, agencies have already begun the process of revising or repealing another guidance document that was the subject of a recent GAO opinion, the so-called ''leveraged lending'' guidance which ensures that big banks do not engage in risky lending practices that threaten the financial system, without any need for a CRA vote.

Given the long and growing list of legislative issues that need to be addressed by the Senate on an urgent and expedited basis, it is difficult to fathom why the Senate would choose to spend valuable floor time to repeal guidance under the CRA when such guidance could be effectively revisited, and if appropriate, repealed by the agency that issued it in short order and with limited procedural requirements. By bringing this vote to the Senate floor, it sends a message to the public that Congress is more interested in giving narrow handouts to special interests rather than addressing the real issues that impact hard-working Americans and their families.

We, the under-signed groups, strongly urge Senators to reject abusing the CRA to attack guidance documents that were issued years ago, and get back to solving real problems on behalf of the American public. We strongly urge you to reject S.J. Resolution 57.

Alaska Wilderness League, American Association for Justice, American Bird Conservancy, American Federation of Teachers, American Sustainable Business Council, Americans for Financial Reform, Center for American Progress Action Fund, Center for Biological Diversity, Center for Progressive Reform, Center for Responsible Lending, Citizens' Environmental Coalition, Clean Water Action, Coalition on Human Needs, Communications Workers of America (CWA), Conservation Lands Foundation, Consumer Action, Consumer Federation of America, Consumers for Auto Reliability and Safety, Defenders of Wildlife, Earthjustice.

EarthRights International, Endangered Species Coalition, Environmental Working Group, Family Equality Council, Food & Water Watch, Institute for Agriculture and Trade Policy, Interfaith Center on Corporate Responsibility, International Corporate Accountability Roundtable, League of Conservation Voters, NAACP, National Association of Consumer Advocates, National Association of Social Workers, National Audubon Society, National Black Justice Coalition, National Center for Lesbian Rights, National Center for Transgender Equality, National Consumer Law Center (on behalf of its low income clients), National Employment Law Project, National Law Center on Homelessness & Poverty, National LGBTQ Task Force Action Fund.

National Organization for Women, National Women's Law Center, Natural Resources Defense Council, Network for Environmental & Economic Responsibility of United Church of Christ, Northcoast Environmental Center, Progressive Congress Action Fund, Public Citizen, Publish What You Pay—US, Safe Alternatives for our Forest Environment, Soda Mountain Wilderness Council, South Umpqua Rural Community Partnership, Tennessee Citizen Action, Texas Appleseed, The Center for Auto Safety, The Lands Council, The Wilderness Society, U.S. PIRG, Umpqua Watersheds, Inc., Union of Concerned Scientists, United Steelworkers, Western Environmental Law Center, WildEarth Guardians, Woodstock Institute, and Young Invincibles.

APRIL 16, 2018.

Majority Leader MCCONNELL,
Russell Senate Office Building,
Washington, DC.
Minority Leader SCHUMER,
Hart Senate Office Building,
Washington, DC.

DEAR MAJORITY LEADER MCCONNELL AND MINORITY LEADER SCHUMER: We, the undersigned civil rights and consumer advocacy organizations, ask you to oppose S.J. Res. 57, the Congressional Review Act (CRA), introduced by Senator Jerry Moran (R–KS), intended to undo the Consumer Financial Protection Bureau's (CFPB or Consumer Bureau) Indirect Auto Lending Guidance, published over five years ago. This resolution is the latest in a series of attempts to chill federal efforts to end widespread unlawful discrimination. Discrimination in the auto lending market is well-documented and results in people of color paying more for years to finance a car purchase. This CRA would also set the dangerous precedent of undoing long-standing federal agency guidance—an expansion of the use of the Congressional Review Act, and certainly beyond its original purpose of narrowly reviewing regulations soon after they were enacted.

The Consumer Bureau's 2013 indirect auto lending guidance put auto lenders on clear notice that the Equal Credit Opportunity Act (ECOA) makes them liable for discriminatory pricing on auto loans they acquire from auto dealers. ECOA makes it illegal for a creditor to discriminate in any aspect of a credit transaction on the basis of race or other protected bases; indirect auto lenders are creditors under ECOA.

Discrimination in auto lending has long been widespread, and a significant culprit is the discretionary dealer mark-up. Three-fourths of all consumers use a loan to purchase a car, and 80% of auto loans are financed through the auto dealer. The auto dealer may provide that financing directly or it may facilitate indirect financing by an indirect third-party lender. In indirect auto financing, the dealer usually collects basic information regarding the applicant and uses an automated system to forward that information to several prospective indirect auto lenders. The indirect auto lender establishes a ''buy rate'' for the customer. The dealer can then add as much as 2–2.5% to the buy rate and keep some or all of the difference. These mark-ups have been found to add over $25 billion to the total loan cost of auto loans made over the course of one year.

The discriminatory impact of this discretionary practice has been researched and documented, time and again. In the mid–1990s, a series of lawsuits were filed against the largest auto finance companies based on data showing that that borrowers of color were twice as likely to have their loans marked up and paid markups twice as large as similarly situated white borrowers with similar credit ratings. The CFPB's own investigations found that borrowers who identified as African American, Latino, and Asian/Pacific Islander paid between 20 and 36 basis points more for their loans than similarly situated white borrowers, adding between $150 and $300 in additional interest over the life of those consumers' loans.

We have seen the evidence that enforcement against auto lending discrimination has resulted in real benefits to wronged borrowers of color. As a result of its investigations, the Consumer Bureau, jointly with the Department of Justice, took enforcement action against Ally Financial, Honda, Fifth Third Bank, and Toyota, which resulted in restitution to wronged borrowers of over $140 million. These lenders also agreed to adjust their pricing models by limiting the amount of their dealer mark-ups—real evidence of progress in the fight against a discriminatory lending practice. Of note, the 2013 guidance also explains that lenders can address fair lending risk by paying compensation to dealers in ways other than allowing them to mark up the interest rate.

Discrimination in auto lending continues to be a very real problem. In early 2018, a study conducted by the National Fair Housing Alliance (NFHA) paired white and non-white testers to visit auto dealerships and shop for the same car within 24 hours of each other. The study found that, more often than not, the better qualified non-white applicant was offered higher cost pricing options than the less qualified white applicant, resulting in those non-white borrowers paying on average $2,662 more than the white borrowers over the life of the loan. Additionally, NFHA found that 75% of the time, white testers were offered more financing options than non-white testers. These statistics further prove the need for continued vigilant enforcement against violations of ECOA, as well as clear expectations for industry like the 2013 guidance provides.

Auto loans are the third most prevalent form of debt among U.S. residents after home and student loans. Discrimination in auto lending contributes to credit access disparities and to the racial and ethnic wealth gap. This CRA would send the wrong message to the auto industry and to the American people.

In addition, CRA has never been used to undo longstanding guidance, and it was not intended to be used this way. Permitting CRAs to undo longstanding guidance opens the door to regulatory uncertainty across the federal regulatory environment and across a range of U.S. markets as a result.

We urge you to oppose S.J. Res. 57 and keep the federal government's commitment to rooting out racial discrimination clear.

Thank you for your consideration. If you have any questions please do not hesitate to contact Cheye-Ann Corona, Senior Policy Associate with the Center for Responsible Lending,

Sincerely,

Allied Progress, American Federation of State, County, and Municipal Employees, Americans for Financial Reform, Arkansans Against Abusive Payday Lenders, California Reinvestment Coalition, Center for Responsible Lending, Color of Change, Consumer Federation of America, Consumers Union, Impact Fund, Lawyers' Committee for Civil Rights Under Law, NAACP, NAACP Legal Defense and Educational Fund, Inc.

NACA—Ohio State Chair, National Association for Equal Opportunity in Higher Education (NAFEO), National Association of Social Workers, National Community Reinvestment Coalition, National Consumer Law Center (on behalf of its low income clients), National Urban League, Public Citizen, Public Good Law Center, Public Justice Center, Texas Appleseed, The Leadership Conference on Civil and Human Rights, U.S. PIRG, UnidosUS, and United Church of Christ.

Mr. BROWN. Mr. President, Americans for Financial Reform called this resolution ''a deeply troubling piece of legislation that will leave millions of people of color at the mercy of auto-dealers and lenders with a long history of racial discrimination.''

I know a lot of auto dealers, and I am sure my friend from Idaho, Senator CRAPO, does as well. We all do. Most of them don't do this, but some of them do, and why are we allowing the some of them who do to continue to do this?

If Republicans are willing to use this loophole that a few very smart Republicans uncovered—this loophole that they went down in the weeds and figured out how to exploit—if they are willing to use this loophole to attack our basic right to equality, there may be no end to the other consumer protections they can repeal. Big corporations could be free to take advantage of customers with little to rein them in, with fewer consumer protections and with fewer environmental protections.

Think of the progress we have made in this country because of consumer protection, because of strong safe drinking water laws, and because of strong clean air laws. I live 10 miles from Lake Erie. I know about the progress, in part because we passed strong laws for environmental protection. I know what we have done to clean up Lake Erie.

The Great Lakes are 20 percent of all the ground and surface freshwater in the world. I look at what we have done as a society. Do we want to go back on this as the President cuts funding to clean up the Great Lakes? The EPA issues guidelines today to ensure that corporate polluters aren't putting communities in danger by contaminating the air they breathe or the water they drink. States rely on Federal guidance—the key word—so they can work with the Federal Government to provide healthcare to families and children. Workers rely on guidance from the Department of Labor to make sure they are getting fair pay in a safe workplace. But under the legislation before us today, those protections could be stripped away in the future, one by one by one.

Every time somebody here wants to do a favor for their favorite special interest group, they can go down to Senator MCCONNELL's office, probably pick up a ticket—because there is probably going to be a line, with all the lobbyists going in and out—they will pick up a ticket to say, which special interest group can I do a favor for today, and they will find another one.

For the millions who lost their jobs, for the millions who lost their homes in the financial crisis a decade ago, for the millions who are struggling to build their retirement with wages that haven't been growing for more than 20 years, it is already hard enough to get ahead. We should be making it easier for them, not harder.

I ask for a ''no'' vote.

Mr. President, I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

Mr. THUNE. 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. THUNE. Mr. President, today is tax day, not typically a day of celebration for anyone, with maybe the exception of the IRS. But this year there is—believe it or not—something to celebrate because tax day 2018 marks the end of the old tax system.

Next year, Americans will be filling out their taxes under the new tax system that was created by the Tax Cuts and Jobs Act. That means that they will be paying less in taxes and keeping more of their hard-earned money.

If anything became clear during the last election cycle, it was that the economy was not working well for American families. In CNN exit polling, 62 percent of voters rated the economy as poor, and that wasn't surprising. The Obama administration was tough for American workers. Job creation was sluggish, wages were stagnant, and economic growth lagged far behind the pace of other recoveries. Opportunities for workers were few and far between. It is no wonder that so many hard-working Americans felt like they had been left behind.

Republicans were listening, and one of our top priorities in this Congress has been improving the economic outlook for the American people, which is why last fall we took up tax reform.

The Tax Code may not be the first thing people think of when they think of economic prosperity, but it actually plays a key role in determining the success of individual families and of our economy as a whole. The more money the Federal Government takes from you in taxes, the less money you have to pay bills or to buy a house or repair your car or save for retirement. The more money a business has to give to the Federal Government, the less money it has to grow the business and to invest in its workers.

So when it came time to draft a tax bill, Republicans had two goals. First, we wanted to put more money in the pockets of hard-working Americans right away. Second, we wanted to create the kind of economy that would give Americans access to economic security over the long term.

Now, I am proud to report that the Tax Cuts and Jobs Act has already achieved the first goal and is well on its way to achieving the second. To put more money in Americans' pockets, we lowered tax rates across the board and nearly doubled the standard deduction—the amount of Americans' income that is automatically free from taxation.

We also acted to provide relief for parents, who are doing the hard work of raising the next generation, by doubling the child tax credit and allowing more parents to claim the credit. We eliminated the individual mandate tax, which disproportionately hit low-income families. We also made sure to protect key retirement savings plans—401(k)s and individual retirement accounts—and we improved education savings accounts, allowing families to use their 529 plans to save for elementary and secondary as well as higher education.

Thanks to the IRS's new withholding tables and its new withholding calculator, Americans have already started seeing the new tax relief in their paychecks.

For a lot of Americans, that is not all they are seeing in their paychecks. A lot of Americans are also seeing pay increases or bonuses thanks to the Tax Cuts and Jobs Act.

That brings me to our second reform goal, which was creating the kind of economy that would give Americans access to economic security and prosperity for the long term. We knew that the only way to give Americans access to real long-term economic security was to ensure that they had access to good jobs, good wages, and real opportunities. We knew that the only way to guarantee access to good jobs, wages, and opportunities was to make sure that businesses had the ability to create and maintain them.

But before the Tax Cuts and Jobs Act, our Tax Code wasn't helping businesses to create jobs or to increase opportunities for workers. In fact, it was doing the opposite, and that had real consequences for American workers.

A small business owner struggling to afford the hefty annual tax bill for her business was highly unlikely to be able to hire a new worker or to raise wages. A larger business struggling to stay competitive in the global marketplace while paying a substantially higher tax rate than its foreign competitors too often had limited funds to expand or increase investment here in the United States.

So when it came time for tax reform, we set out to improve the playing field for American workers by improving the playing field for businesses as well. To accomplish that, we lowered tax rates across the board for owners of small and medium-sized businesses and farms and ranches. We lowered our Nation's massive corporate tax rate which, up until January 1, was the highest corporate tax rate in the developed world. We expanded business owners' ability to recover investments they make in their businesses, which frees up cash they can reinvest in their operations and their workers.

We brought the U.S. international tax system into the 21st century by replacing our outdated worldwide system with a modernized territorial tax system so that American businesses are not operating at a disadvantage relative to their foreign competitors.

The goal in all of this was to free up businesses to increase investments in the U.S. economy, to hire new workers, and to increase wages and benefits, and that is exactly what they are doing.

In response to the Tax Cuts and Jobs Act, more than 500 companies across this country, and counting, have announced good news for American workers. Company after company has announced pay raises, bonuses, 401(k) match increases, and other benefits.

Others are expanding their businesses and investing in new equipment and facilities. Still others are passing tax savings on to their customers in the form of things like utility rate cuts. That means more money for Americans now and more money for Americans in the future.

Tax day may never be a fun day, but Americans can take heart because thanks to the Tax Cuts and Jobs Act, next year's tax day is going to be a lot less painful.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I rise this afternoon to address the CRA we voted to proceed to and on which we will vote for final passage tomorrow. It is a Congressional Review Act resolution that will allow us to repeal an ill-conceived CFPB regulation.

Let me start with just a word about the CFPB because this is an agency that is fundamentally flawed in its design and has been so since day one.

First, there is a single individual director. There is no bipartisan commission. There is no board. There is no need for consensus. There is one-man rule.

Secondly, this one individual can only be removed for cause. He is part of the executive branch, but the Chief Executive can't fire him. This makes no sense.

Finally, the entire CFPB—this huge regulatory agency—is subject to no meaningful oversight. They are not dependent on Congress—the people's representatives—for taxpayer funding. They just draw whatever they want out of the Fed, which means the Fed has that much less to hand over to the Treasury. An individual, rather than a commission, no ability to remove, except for cause, and not subject to appropriation—it is a recipe for a disaster. That is what we have had.

It is not just my opinion, by the way. A three-judge panel of the DC Circuit Court of Appeals ruled that this structure is fundamentally unconstitutional. I will quote briefly from their decision. They said: ''The CFPB's [concentration of] enormous executive power in a single, unaccountable, unchecked Director not only departs from settled historical practice, but also poses a far greater risk of arbitrary decision making and abuse of power, and a far greater threat to individual liberty, than does a multi-member independent agency.''

Fortunately, we have an Acting Director at the moment who gets this. Mick Mulvaney has testified about these very flaws in the CFPB and suggested, as many of us have, at least some structural reforms, making the CFPB subject to appropriations so Congress has meaningful oversight; requiring that the major rules they pass be subject to a legislative approval, which is Congress taking responsibility for the action Congress delegates; giving the President the ability to hire and fire a Director; and having an independent inspector general so we have a watchdog.

This is the least we should do. Our colleagues on the other side have not been willing to agree to any of them, so we have this badly flawed agency. It shouldn't be surprising that a flawed structure leads to badly flawed policies. That is why we are here discussing this CRA. It is about the indirect auto lending guidance, as it is called, that the CFPB issued some time ago.

Let me explain a little bit about what this is. Indirect auto lending—what is that? Direct auto lending is what you might think. It is when a consumer, a buyer—someone who wants to buy a car—goes to a bank and lines up financing from the bank. That would be direct auto financing. Indirect auto financing is when the car dealer provides the arrangement of the financing for you. The actual financing is ultimately performed by a lending institution, but the car dealer makes the arrangements.

Indirect auto loans are actually very good for consumers for a variety of reasons. No. 1, it is very convenient. You don't have to shop around to a bunch of banks, as well as a bunch of car dealers. You get one-stop shopping, and you have both.

No. 2, it tends to be more competition for the consumers' loan. How many banks are you going to realistically go out and visit when you are attempting to line up your financing? But the car dealer can routinely canvass all the available lending options and make sure the consumer gets the best possible deal.

Finally, as a routine matter of practice, dealers have always been able to discount the loan as one of the negotiating provisions in a multipart transaction. That is important to stress here. The nature of the car-buying experience—for any of us who have done it—very typically, there are several moving parts, several transactions. There is the purchase price you negotiate for the vehicle you are buying and the trade-in value for the vehicle you are parting with. There is the value of other services you may negotiate for. It is not possible to judge the overall economics of a transaction like this unless you know all of the components. The interest rate you pay on the loan is but one of several important components.

Along comes the CFPB. In December of 2013, they issued a bulletin that is an attempt to regulate the indirect auto lending. In this, they warned lenders of a disparate impact liability.

Let me explain briefly what this means. First of all, if lending policy is discriminatory, it is illegal. If there is discrimination on the basis of any protected class—and that would include race, sex, age, gender, and other things—it is illegal. What the CFPB came along and said is, even if the lending policy is not discriminatory—not on its face, it is nondiscriminatory—you can still be liable for the violation of the law if the CFPB thinks there is a protected class, some category of people, who are paying, on average, a higher interest rate on their loan. This is the disparate impact theory the CFPB used in order to attempt to end the ability of auto dealers to discount loans as part of a negotiated transaction on a car purchase.

Why is this so problematic? There are two categories. First is the very process by which the CFPB came up with this rule. First of all, it is actually a guidance, not a rulemaking. What does that mean? That means they chose not to follow the law, the Administrative Procedure Act, that requires an agency go through a very systematic and public process of getting a lot of input and review on a proposed law, proposed rule, before it goes into effect.

For very good reason, we require regulators to get public input, to give experts, consumers, and people engaged in the business the opportunity to examine the rule under consideration and provide some feedback as to whether there might be unforeseen consequences or flaws in it. They did none of this. The CFPB did not consult with the other regulators, as they are required by Dodd-Frank, nor did they do a cost-benefit analysis, which is also required by Dodd-Frank. They surprised the industry and the consumers by fundamentally reinterpreting how the anti-discrimination legislation would be interpreted.

Why did they do this? Why did they take this approach? Why did they circumvent the Administrative Procedure Act? It is a convenient way to avoid scrutiny. It is a convenient way to impose one's will without public scrutiny, without any analysis.

This is a very bad process and, not surprisingly, the outcome is equally bad. The methodology they used to determine discrimination on the basis of race is really amazing. Since there is no information about the race of a borrower in financing for a vehicle, the lenders don't know the race of the borrowers, literally. They have no idea. Neither does the CFPB, but that didn't stop them from alleging racial discrimination. They developed a methodology, a system, where they attempt to guess the race of a car buyer who is financing the purchase of a car through a loan. They tried to guess their race based on the last name and geography. They assign a probability to a person being African American or Hispanic or European American or whatever based on a surname and geography.

This is a wildly flawed process, which quite predictably led to huge errors. Independent, outside analysis has concluded that their error rates could be as high as 40 percent. So 40 percent of the people they would designate as African American, in fact, are not, or 40 percent of the people they would designate as European American, in fact, are not. It is not just that they got their guesstimate wrong about race, but the manner in which they got it wrong led to the wrong and erroneous conclusion. In other words, there were systemic flaws that completely invalidated their conclusions.

Finally, and maybe in some ways most important, they willfully chose to ignore all the other components of the transaction. They allege that someone was adversely impacted because they paid a higher rate of interest on a loan, but they have no idea what the purchase price on the vehicle was. They have no idea what the trade-in was for the used vehicle. They have no idea what other services were being offered.

This gets worse. The CFPB decided they needed to make an example of someone so they could terrorize the industry into ending this practice of discounting interest rates, and they found a good victim. The Federal Government owned about 74 percent of Ally Bank at the time. They had an application before the Fed to change their corporate organization, which they needed to do. They needed to complete that; otherwise, they would have to shed whole business lines. It is a long, complicated story. Suffice it to say, Ally Bank's future existence, as it was formed, depended on an approval from the Fed for what should have been a routine change in corporate structure. The Fed made it clear they weren't going to grant that change until there was a settlement with the CFPB, so Ally Bank was over a barrel. That was exactly what the CFPB wanted. Five days before the deadline, which would have required Ally Bank to divest itself of whole categories of business, the CFPB shakes them down for $100 million. Four days later, the Fed approves the application. The CFPB found its opportunity, made its example, and it had a chilling effect on the market.

Let me wrap this up with what we are talking about here. It is an unaccountable, out-of-control agency that circumvented the proper rulemaking process in order to avoid public scrutiny about what they were trying to do. They imposed their will on an industry that the Dodd-Frank legislation explicitly forbid them from regulating. They developed a badly flawed methodology to allege discrimination on the part of lenders on the basis of race, despite the fact that the lenders didn't know the race of the borrowers. They picked a victim who couldn't fight back. They hit the victim with a $100 million fine without the CFPB knowing that any individual was actually unfairly treated by Ally Bank. It didn't matter.

Who ultimately pays the price for this kind of behavior? The very consumers the CFPB is supposed to be serving. Under this very flawed rule of the CFPB, the goal was to effectively prevent auto dealers from being able to discount the interest rate on a loan, being unable to compete with a bank down the road that might be offering a lower rate, being unable to negotiate a term that might be helpful to a borrower.

Consumers under the CFPB's rule have fewer options, less flexibility, reduced access to credit, and higher costs. That is why Congress should overturn this. This is our opportunity to set this right. The House voted 332 to 96 to repeal this rule. We can do this tomorrow.

Our colleagues on the other side of the aisle have complained about the use of a CRA in application to a guidance issue. Our Democratic colleagues themselves attempted to do this exact same thing with respect to a chip guidance that was issued some years ago, and they were perfectly OK with it then. I don't see why they can't be OK with it now.

It is important to note what this resolution does not do. It does not change, in any way, the legitimate enforcement of the Equal Credit Opportunity Act. It doesn't amend that act. It doesn't change regulation B. The enforcement of the Equal Credit Opportunity Act would simply continue as it had gone for 30-plus years. Discrimination in credit providing has been illegal and will continue to be illegal when we successfully pass this CRA.

I thank Senator MORAN and Will Ruder from his staff, John Crews from my staff. I thank Terry van Doren from Leader MCCONNELL's staff for his help. I urge my colleagues to vote in favor of this important Congressional Review Act resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

TAX REFORM

Mr. PERDUE. Mr. President, today is tax day, 2 days later than April 15 actually, but nonetheless, today is tax day. I rise to speak about the impact of what we have done over the last 15 months to affect the future of our free enterprise system in America. When President Donald Trump took office last year, he set out with three clear priorities. Under the major objective last year, job one was to grow the economy. To do that, he charged us in Congress to focus on three things: regulations, energy, and taxes. In addition to those three, we were supposed to try to get to Dodd-Frank and take away some of the pressure on small banks and regional banks, which we have done this year in the Senate. Just a few weeks ago, we passed a bill. The reason that is important, those four things will free up some estimated $6 trillion in potential capital investment that has not been at work in our $20 trillion economy.

What we have just done with regulation, energy, and taxes will free up or have the opportunity to free up the $6 trillion. That is huge in this economy. In the regulatory environment last year, well over 860 regulations were reversed. It is the largest in history. Concrete steps have been taken to unleash our country's full energy potential, including with ANWR, the Keystone Pipeline, and adjustments to the Clean Power Plan and the waters of the United States, just to mention a few.

Finally, historic changes to the Tax Code were signed into law by President Trump. It used to be that today was a bad day in America, and we all dreaded it. It was the day we had to turn our taxes in. This year, it is actually a day of good news in that this is the last time the American people will have to file their taxes by using the old, outdated tax system that has become so archaic and so noncompetitive with the rest of the world. These changes to the Tax Code will bring relief to American workers and businesses. The average, median-income household in America—a family of four—will see its taxes reduced by about $2,000 a year, or more than half.

The change to the Tax Code of making our tax rate more competitive is making American-made goods much more competitive on the world stage. The greatest hindrance to and the greatest tax on the American worker in years past was this archaically high corporate tax rate. People said: Well, we just pushed all of those profits to the corporate entities. No, this is the greatest thing we could do for the American worker—to help them become more competitive with the rest of the world, to give them a level playing field. That is what we did in this tax bill.

We are already seeing the early positive results. Over 2 million new jobs have been created since President Trump took office, and consumer confidence is at a 17-year high. As an ex-retailer and a person who has worked with consumer products and in manufacturing for most of his career, I have watched this index. This is phenomenal to be at a 17-year high this early in this turnaround. It bodes well for the future of what we have just done.

CEO confidence is at a 20-year high. Some $2 trillion in overseas profits has potentially been unlocked to be made available now for capital investment back in this country. Yes, we already see public corporations making public statements in their quarterly earnings reviews about the capital investment plans they are laying out. We see investment increases being announced every month from public companies in America today. There is no question that businesses are beginning to bring those profits home and investing in our economy.

Nationally, in addition, over 4 million Americans have received bonuses and wage increases. Over 500 businesses have taken positive action, be it by giving out bonuses, raising wages, increasing 401(k) matches, or increasing their overall investments in their companies.

As a matter of fact, another benefit is that most of these public corporations have major foundations that do philanthropic work—tremendously constructive philanthropic work. Most of these companies that have made these announcements about their own financial well-being and those of their employees have also dramatically increased their contributions to those philanthropic efforts and those trust funds.

In my home State of Georgia, dozens of companies are taking action because of these changes to the Tax Code, and they are making these statements public. Just go to any public corporation today that is in its latest quarterly return and look at what it is saying about how this tax change affects its business and the future of its employees. This is huge.

It is also huge for the entire country because we are much more competitive today than we have been. For years the Tax Code was working against American workers and our entire economy. It was crippling small businesses' ability to expand their companies and hire more workers. It was damaging our ability to compete with the rest of the world. Changing the Tax Code last year was the single greatest thing we could have done to have unleashed economic growth this year, and we are just getting started.

I have been through some of these large turnarounds, and I characterize this as a mega turnaround. After 8 years of the lowest economic growth in U.S. history, we are now on the rebound. That is so important for the future of our country in the long term. We have a $21 trillion debt today, as the Presiding Officer knows. One of the things we have to do in order to dig our way out of that is to get our economy healthy again. As documented by the CBO, or the Congressional Budget Office, a 1-percent growth in GDP will yield $300 billion of Federal revenue every year. That is $3 trillion over the next decade. With the projection that we are going to add $10 trillion to the debt over the next decade just from decisions that have been made over the last decade, we can see that just growing the economy alone is not enough to solve this debt crisis.

There are some in this body who have argued that this has been nothing but a boondoggle, nothing but a huge deficit-increasing exercise. Yes, there were identified costs included with this, but what was not considered by the CBO was the long-term return on investment, the leverage effect of that return on investment, or the leverage effect of this returning profit situation that we have coming back from the changes in the repatriation law. In addition to that, the CBO disagreed with using the impact of foreign direct investment, which I really don't understand.

I am proud that we got this tax bill done, and I know that the positive impact is really just beginning. There are other things we must do to deal with our national debt in the long term, like fixing our budget process, cutting back on redundant agencies, saving Social Security and Medicare, and finally getting after the spiraling nature of the underlying drivers of our healthcare costs and not just the insurance of it.

This wouldn't be happening without these changes to the Tax Code, however, and without a President with a new perspective in the White House. President Trump worked in the real world for decades, and he brings that sense of urgency to the White House. Today he is working at a business pace, not at a bureaucratic pace, and he is committed to keeping up the positive momentum.

This year, the pressure is on the other side because, right now, as we are trying to deal with immigration, the labor issue might be a constraining factor in the ultimate growth of this economy, and we need to deal with that. For different reasons, both sides believe we need to be investing in infrastructure. I will remind my colleagues in this body that it was just in 2011 when this government threw $1 trillion into our economy. I would debate the benefit of that particular investment because it was not thrown at those stimulative issues that would grow the economy.

Today, America deals with a new world. The world situation has never been more dangerous. The best thing we can do for our military and for our people is to get this economy moving again and create a level playing field around the world to help our trade situation. That is what the President is trying to do right now—to create a more level playing field so as to grow our economy, fix our budget process, and deal with the spending issues that we have here at home.

I am excited to be a part of the Joint Select Committee on Budget Process Reform, which is charged with changing the way we fund the Federal Government every year. I am hopeful that will lead to a new budget process that will allow us to avoid the continuing resolutions and the omnibuses by which five or six people get in a room and decide how to spend $1 trillion. The tax changes alone will not dig us out of this debt crisis. We knew that this was the first step in getting it going, and I am delighted with the impact that it is having on our economy today.

I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. PERDUE. Mr. President, I ask unanimous consent that the Senate stand in recess until 5:30 p.m. today.

There being no objection, the Senate, at 4:21 p.m., recessed until 5:33 p.m. and reassembled when called to order by the Presiding Officer (Mr. RUBIO).

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY BUREAU OF CONSUMER FINANCIAL PROTECTION—Continued

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. SCHATZ. Mr. President, I am here to give some brief remarks about what we are on right now, which is a Congressional Review Act vehicle to reconsider agency guidance. There is nothing that sounds more arcane and wonky than that.

The issue at hand has to do with disparate treatment of people when they go in to get a car. There is plenty of evidence that Black and Brown people are taken advantage of and treated more poorly in the credit context than White people. So the CFPB went to collect data and to require that people be treated fairly.

I will be voting against this CRA vehicle, but I actually think there is a bigger, broader, more concerning issue. I am going to try to work with the Parliamentarian's office and with the leadership of both parties to try to address it. Although it is arcane, it is very worrisome for the Senate itself.

The Congressional Review Act passed in 1996. The idea was straightforward: All rules have to have some authority beyond the desire for the agency to want to promulgate rules. It is subject to review by the Congress. In other words, if you don't like what an agency is doing, now there is a pathway called privileged, which allows the Congress to go ahead and overturn that rule. In the Senate, it is especially important because it is not subject to a 60-vote threshold. This is a big deal. This allows Congress to say any time there is a rule made: We are going to overturn it with a bare majority threshold. That was the will of the Congress, and that is Federal law.

Here is how the statute works. The rule gets submitted to GAO and Congress, and then a clock starts and a bunch of statutory triggers go. I dug into this over the last 10 weeks. Suffice it to say it is very complicated. There is a strict timeline, and there are 60 legislative days to take action. And because we are the legislative branch of the Federal Government, legislative days are not actual days; it ends up taking four times that long.

The important part is that there is a process that is prescribed for that, and there is a timeframe that is prescribed for that. That is the authority the Congress gave itself in 1996. That authority is very clear about two things:

First, it is meant to apply to rules, which are binding, and it is meant to have legal force. The CRA gives the Congress a way to weigh in when an agency's interpretation of the law conflicts with the legislative intentions.

Second, it only applies to rules that were recently promulgated. In other words, they specifically envisioned that a clock would run. The rule gets submitted to Congress, the clock runs, and if the Congress likes the rule or if there is not sufficient will to overturn the rule, then the rule stands. If the Congress doesn't like the rule, then a Member can introduce a CRA resolution of disapproval, and we act on it.

This is why what is happening right now is totally nuts. What is happening right now is not what we have normally done with CRAs. What is happening right now is that we are submitting agency guidance—not a rule but agency guidance—which has no legal force, to the same procedures as the rules under the Congressional Review Act. The guidance in question is implementing guidance for a statute that is 50 years old. The guidance came out 5 years ago. The law that it is implementing is 50 years old. It is a piece of guidance. It is literally interpretation of an existing law for the public. And now we are going to overturn the interpretation of an existing law from an executive agency. We are not overturning a rulemaking.

When you go through the rulemaking process in the executive branch, it takes anywhere from 12 to 36 months. There is a rigorous process. It is sort of quasi-judicial, and you have to really check all the boxes and do it right. Otherwise, you get sued under the Administrative Procedure Act. None of that happened. This was just guidance.

So now, if the Parliamentarian and the GAO and everyone else decides that the CRA applies to guidance, then the time limits on CRA don't matter at all, and the interpretation of this statute is rendered absurd.

I will point out that this is not the most well-crafted Federal law on the books. It is very difficult to interpret this Federal law, so I sympathize with the Parliamentarian and GAO and the leadership of both parties, who are trying to make sense of a statute that is unclear in some places. But when a statute is unclear, you are supposed to interpret the statute in a way that the statute functions. Right now, what we are doing is we are rendering the statute essentially absurd because if it is a rule, you have a strict time limit. If it is guidance—and I am not sure, if it is guidance, why that wouldn't also apply to an agency circular or an executive memorandum for the Under Secretary. All of this could be subject to tens of thousands of pieces of guidance and rules and views, and whatever is considered policymaking could be subjected to a Congressional Review Act action. I think that is completely bananas.

We are going down a path where Congress can take an administrative action that has been done in the last 22 years and subject it to the CRA, and you will not need 60 votes. This is bad for our institution. I can't stress that enough. I understand that this is not the kind of thing that people across the country are going to be deeply passionate about and march on the streets about and be motivated to vote on, but we are in the Senate, and we have an obligation to safeguard the way this institution operates.

I am deeply afraid that if we subject every piece of administration guidance—and remember, the door swings both ways in Washington. We will have a Democratic Senate. Who knows when, but we will have a Democratic Senate and we will have a Democratic House, and we can scour everything that every Republican administration has done since 1996 pursuant to any law made at any time in our American history and subject it to a majority vote.