same number of judicial cloture filings as in the previous 40 years combined; Republicans used the tactic of withholding blue slips to block 18 of President Obama's nominees; Republicans refused to support any Obama nominee for three D.C. Circuit vacancies, no matter how qualified; Republicans allowed only 22 Obama nominees to be confirmed in his last two years—the fewest judicial confirmations in a Congress since President Truman; and Republicans blocked Supreme Court nominee Merrick Garland from even having a hearing.

Senate Republicans often opposed President Obama's nominees simply because it was President Obama who nominated them. In contrast, Senate Democrats simply want to ensure that nominees are adequately vetted, well-qualified, non-ideological, and in the judicial mainstream.

We have the ability to make the nominations process work in a consensus way. We have done it in Illinois. I hope we can do it across the country.

Let's start by keeping the blue slip. Sometimes it can be frustrating-we saw that when Republicans used blue slips to block 18 of President Obama's nominees. But it is a tool that compels us to find consensus. Let's keep that tool.

I urge my Republican colleagues to vote no on the nomination of Michael Brennan, both because of his troubling record and because of what his confirmation would mean for the future of the blue slip. I urge my colleagues to vote for nominees like Amy St. Eve and Michael Scudder whose qualifications are outstanding, who were selected through a good process, and who have both home State Senators' support.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

THE ECONOMY

Mr. BARRASSO. Mr. President, last Friday, we got new numbers from the Labor Department in terms of jobs and how American workers are doing. The unemployment rate is now down to 3.9 percent. It is the lowest it has been in 17 years. One analyst from the network CNBC said: ''That's a wow number.''

The American economy has created 3 million jobs since President Trump took office. There are 3 million Americans who are now earning a paycheck instead of waiting for a government check. We have gotten 304,000 new manufacturing jobs since President Trump took office. There are 352,000 new construction jobs and 84,000 new jobs in the mining and logging industries. Compare this to when Democrats in Congress and in the last administration launched an all-out War on Coal. There are 84,000 new jobs in mining and logging.

Republicans ended the War on Coal. We struck down a major Democratic regulation that would have crippled the mining industry. We showed industries like manufacturing, construction, logging, and mining that we want people doing these jobs. We want people back to work. Employers have responded all around the country by hiring more people, and that makes the economy grow.

So far Republicans in Congress have gotten rid of 16 major regulations since President Trump took office—wiped them off the books completely. We have shown that Republicans are serious about cutting redtape and loosening Washington's stranglehold on our economy. Because we got rid of these rules, Americans have saved as much as $36 billion over time. That is the cost for families and businesses jumping through the hoops and filling out the paperwork that government had previously demanded.

The latest one of these regulations that were repealed was just last month. Republicans in the Senate passed a resolution to help save people money when they are shopping for a car. We got rid of a rule that the Obama administration had written to restrict how car dealers handled financing offers to buy a car. The rule was done in a way that was actually contrary to the law. It also had the potential to limit choices for consumers. We want consumers to have more choices. Republicans in the Senate voted to get rid of this unnecessary, burdensome regulation.

President Trump has been very active in getting rid of excessive regulations as well. One of the first things he did as President was to issue an order cutting redtape. He said that for every significant new rule any agency wanted to write, it had to get rid of two rules. For every one new rule, get rid of two. That is how this administration has made a difference in Congress.

The results so far have been even better than anyone had expected. The nonpartisan American Action Forum has been tracking the numbers. This is what they said. They looked at all the rules that agencies have been working on for the fiscal year we are in now—since last October. Agencies have cut 35 major regulations of the kind the President was talking about—cut 35. At the same time, they have written only five new major regulations. Major regulations are defined by how much money it costs people. President Trump said that he would cut two for every one new regulation, but so far, in terms of major regulations, he has cut seven for every new one.

Of course, one of the most important things Republicans have done in helping the economy—in addition to the regulations—has been passing the tax relief law. This law means that we now have a simpler tax system. We now have a fairer system, and we have a system that is much less expensive for American families. Almost immediately, hard-working Americans started seeing more money in their paychecks. People got bonuses at work. People got raises. People are seeing it.

Tax cuts have been good for American families, and they have been good for the American economy as well. The Congressional Budget Office says that the economy is going to grow by more than 3 percent this year—by more than 3 percent. That is much faster than it was growing for the previous years after the recession. The office actually went back and increased their estimates for economic growth. Why? Because of the tax relief law, the tax cuts.

Wages are up nearly 3 percent from a year ago. People are seeing it all across the country. Again, that is much faster growth than we had under the previous administration. When you figure in lower taxes, people's real take-home pay is up even more.

Democratic policies led to stagnant wages for Americans. Republican policies have allowed wages to grow much more quickly. Millions of people have gotten new jobs that didn't exist before. Millions of other people have been able to switch jobs, move up in their careers, and make more money.

Overall, hiring this past month, April, went up by 20 percent compared to April of last year. It is a huge increase. A lot of these jobs are being created by small businesses.

Last week was Small Business Week across America. I visited a number of business owners across the State of Wyoming. Small business owners know that the government can either create opportunity or crush opportunity, based on regulations, mandates, and taxes. That is the kind of change that is possible under Republican pro-growth policies—creating opportunities, not crushing opportunities, as we have seen before. It is things like a national economy that is growing larger and growing faster that the American people are seeing today. Their lives are better today than they were in 2016. It is things like a small business being free to expand because it doesn't have to waste so much time and money on taxes and paperwork and government redtape—things like making sure America takes less money out of people's paychecks, letting people keep more of their hard-earned money.

When you have policies that make life easier for families and for businesses, good things happen across America. People in my home State of Wyoming get it. They are seeing it, they are experiencing it, and they are living it every day. They understand that what Republicans are doing in Congress helps them at home. That is why we are going to keep doing what we are doing, and we are going to keep going on. We are going to keep cutting regulations. We are going to keep building an ''America First'' economy

that is strong, that is healthy, that is growing, so it can create more opportunities for everyone. That is what Republicans have promised to do. It is what we should be doing. It is what we are going to do. It is what we are going to continue to do. It is what we are delivering in Congress and in the White House for the American people.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PORTMAN. 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. PORTMAN. Mr. President, first, I want to talk about our growing economy. I listened to my colleague's comments, the Senator from Wyoming, about the importance of the tax legislation. I couldn't agree with him more. I think it is stimulating not just economic growth but higher wages and more jobs. I also want to talk about the need for us to connect to those jobs the Americans who are not currently employed. Then I want to talk about some very shocking, new information we have about why people are outside of the workforce.

We just had a good jobs report from April. It showed a steadily growing economy. It showed unemployment at 3.9 percent. That is the official number, but that is the lowest the official number has been since the year 2000.

In my home State of Ohio, there was a recent survey done by PNC Bank—it has been doing this for 9 years—that asked small- and mid-sized companies: What is your level of optimism about the future? They said their business optimism has been at record levels for the past 9 years. So there is something going on that is very good in the economy.

If you talk to the small business community, the National Federation of Independent Business survey shows the same thing, not just optimism but also a sense that companies are getting ready to invest even more. So there are some good things going on in our economy.

This week, the Ohio Chamber of Commerce issued its own report, and it shows something interesting, which is that three out of four businesses in Ohio are saying they want to add people—three out of four. More than half of them said they want to add more than 25 people. I was just home and had a lot of interaction with small business people over the last week. I can't go to a business in Ohio where I don't hear people talking about the need for a qualified workforce. They tell me, yes, the tax bill is helping—no question about it. It is helping middle-class families throughout my State. Ninety percent of Americans are getting paychecks that read Uncle Sam is going to withhold less money—on average, $2,000 for a median-income family in Ohio just from the tax cuts this year alone.

Again, small businesses are investing more. Companies are doing everything from investing in people, with bonuses and higher pay and better 401(k) matches, to investing in equipment and technology and, therefore, in the productivity of those workers, which will lead to better economic performance. So those things are happening.

On the regulatory front, I also think that much of what we have done in Congress is beginning to help. This includes 16 different times when Congress has said we shouldn't have this new regulation that was put on by the Obama administration at the end of his term. Rather, we ought to free up the economy more—over $60 billion, by the way, of relief to our economy. That is helping.

I think it is also very helpful, as Senator BARRASSO said, that with regard to the administration, there is a new attitude, which is, yes, we need rules and regulations, and let's make sure they make sense, and let's make sure we partner with businesses and try to help them comply with those rules and regulations rather than have an attitude of saying: Let's try to find out how we can punish businesses for not complying. I think that difference alone may be even larger than what we have done in Congress, in terms of passing this legislation to eliminate regulations, because that attitude change has helped, particularly, small businesses in my State feel like, OK, they have an opportunity now to be able to take a risk—to take a chance—to invest in work. They are not thinking the Federal Government is out there to get them.

I see that, and I am really happy to see it because it is not, again, just about growing the economy. Over the past few months, if you have looked at the numbers, for the first time in really a decade and a half, we have seen wages starting to go up in my home State and around the country. That is what we should all want.

Let me talk about something that concerns me greatly about the direction in which we are going—again, positive. The economy is picking up. Things are going well. Workers whom I talk to are happy with the tax bill because it is helping them both directly with their families and through the benefits they are getting at work. Yet what I am hearing is, the workforce is really the challenge. When you look at that, you come up with a shocking situation, in which the reason there aren't people showing up for work is, we have a record number of men and probably close to a record number of men and women—you would probably have to go back to the 1970s to find these kinds of numbers—who are out of the workforce altogether.

Now, what does that mean?

This means they are not working, and they are not looking for work so they are not showing up in the unemployment numbers. The number of 3.9 percent—again, the best since 2000—is all good news, but that is not the real number. I say that with respect because the Bureau of Labor Statistics does the best it can, but it can't include the people who aren't trying to find work. Those people are outside of the workforce. What the economists call this is a low labor force participation rate—in other words, the low percentage of Americans who are even showing up. That concerns me a lot because, one, obviously, it is hurting the economy. You have this huge pool of workers out there. There are 8.5 million men between the ages of 25 and 55—able-bodied men—who are in this category. They are unemployed, yes, but they are not even looking for work so they are not showing up in these numbers. When you add women and men together, it is millions of Americans. So we need them in the economy now because it is important for these small businesses I am talking to in Ohio who are looking for people.

Even more concerning to me is what is happening to these people and to these families, because they are not getting the dignity and self-respect that comes from work. They are not able to achieve whatever their goal is in life, their piece of the American dream. They are missing out. They are on the sidelines.

The 3.9 percent unemployment rate, by the way, is not a real number. Why do I say that? Because if you go back to the normal labor force participation rate—we are talking about people actually working in our workforce in more normal levels—the unemployment number would be far higher. How high would it be? Go back to the year before the great recession when we had a more traditional workforce participation rate. With that labor force participation rate attached to today's economy, the unemployment number would not be 3.9 percent. It would be 8.6 percent.

If we were to talk about an 8.6 percent unemployment rate, we would all be very concerned; wouldn't we? We should be very concerned because that is the real number. We need a more concerted effort to get all of those Americans back to work for all the right reasons.

So who are they? It is a complicated question. No. 1, there are people who don't have the skills that meet the needs out there. So today, in Ohio, if you go on OhioMeansJobs, our website, you will see 140,000 jobs being offered, and yet there are 250,000 people out of work. You will see that a number of these jobs require a certain level of skill.

People are looking for welders. People are looking for technology expertise, including coding. They are looking for people in the biosciences or the healthcare professions, where you have to have a certain level of skill. What workers are finding in Ohio is that if

they don't have those skills, it is hard to get those jobs. So there is a skills gap—there is no question about it—and we should be addressing that.

In Congress we have a great opportunity to do that through some relatively commonsense legislation. One measure is called the JOBS Act—a great name. The JOBS Act says quite simply that if you are able to get a Pell grant for college, shouldn't you also be able to get a Pell grant for a short-term training program? This is because what employers will tell you is that they don't need a 2-year training program or somebody with a 4-year college degree. What they need is someone willing to go through a training program to get the ability to learn how to weld or the ability to learn how to code or even to go through a commercial driver's license program. All these programs can be accomplished in less than 15 weeks, and you can get people to work. But guess what. You can't get a Pell grant for a course that is less than 15 weeks.

So our goal with the JOBS Act is very simple. Let's level the playing field. Let's give an opportunity to those young people who may not choose to go to college, at least now, but who understand that those jobs are out there. We are talking about good-paying jobs, making $40,000, $50,000, $60,000 a year. They are waiting out there right now. These jobs are open. Let's give them the ability—because they are low-income families, and they can't afford these training programs—to take advantage of Pell grants as they would if they chose to go to a 4-year college or university or a 2-year college for a number of years.

Senator KAINE and I have introduced this legislation with a bipartisan group. We think it is something we ought to do right away. Who are these people? People with a skills gap. That is one specific idea—just one of many that would get people the skills they need.

No. 2, there is something I would call the dependency trap. These are people who are on a government dependency program and they are not working. When they look at going to work they see two things. One, they see a reduction in their benefits. That is pretty obvious. But second, they see an increase in their taxes. Now the tax bill actually helps here, because it actually reduces taxes for those at the bottom of the economic ladder.

Specifically, I will state—because I asked the Joint Committee on Taxation about this, and they gave me an official response—that 3 million Americans who currently have income tax liability based on last year's Tax Code—in other words, the code that was changed at the end of last year—no longer have any income tax liability. That is good because it will help with this transition from welfare to work, because although people may be losing those benefits, some people will not see that cliff where they have a relatively high tax to pay. That is good, but we could do more to assure that people who are willing to make that step out of welfare and into work are not penalized by this tax cliff. I think the dependency trap is also part of the issue for this unprecedented level of people who are outside of the workforce altogether, and we need to address it.

I think there should be more work requirement programs for able-bodied Americans who are on these dependency programs. I think that would help partly to give them the work experience to get the dignity and self-respect that comes with work as they step into welfare-to-work transition. So that certainly is another issue. So it is the skills training and the dependency trap.

Another issue that I think is very clearly out there is that we have a lot of people in America who are getting out of prison or jail. Some of them have a record that makes it hard for them to get a job. Let's be honest. We have record numbers of people behind bars. It started in the 1980s, when we wanted to lock people up for lots of good reasons because of the violence or serious crimes they were committing. But 95 percent of the people in prison are someday going to get out of prison. When they do get out, we need to provide a better transition for them to get to work. Why? Because right now more than half of those people are back in the system within a couple of years. That makes no sense for anybody, particularly for those who are subject to the crimes that might be committed and to the taxpayers who are paying $35,000, $40,000, or $45,000 a year, when you include incarceration, the prosecution, and the additional costs that are associated with that.

So should we do more there? Yes. There is legislation supporting that. I think it is called the Fair Chance Act. It says that when somebody applies for a job with the Federal Government, for example, they have to be allowed to go through the process even though they may have a felony record. Why? Because you want to give them a fair shake, not just take the resume and put it in the circular file and toss it because you see a felony record. We have to give some of those folks a chance.

I was at a great program in Ohio last week. It is called the Flying HIGH welding school and the GROW Urban Farm. Their job is to teach ex-offenders a skill. They teach people how to work. A lot of them have not had a job before. Specifically, they teach them a welding skill that is badly needed in Northeast Ohio right now.

Their placement record is unbelievable, and their recidivism rate is so low. They are not only placing people into jobs, but they are working with businesses in what is called a junior apprenticeship program, where the workplace is actually working with the welding shop to give people work experience.

They are keeping people from going back into the prison system. They have a great record doing it. They got a loan and grant money from the Federal Government, including the Department of Labor. It is a program that is working very well to give people the ability to get a job and to get out of the trap. In this case, a lot of them have felony records, and they are able to take care of their families and be productive citizens. There are very encouraging stories there.

There is the skills training, which we talked about, and the dependency trap, which we talked about. For the people who are coming out of prison at very high numbers now and who have this background, we need to be sure that those people are getting engaged and getting into work.

Let me tell you what I think is the No. 1 reason we have these historic levels of people who are on the sidelines outside of work. It will not surprise some of you because you are involved with this, like my colleagues here in the Chamber, including the chairman of the Governmental Affairs Committee, who has now arrived and has been very involved in this. It is the opioid crisis.

The numbers are shocking of those people who are out of work altogether. They are on the sidelines, not even trying to get into work. They are people who would lead our unemployment numbers to be really more like over 8.5 percent rather than 3.9 percent. They are millions of Americans, over 8.5 million men between the ages of 25 and 55—able-bodied men. Of those people, based on two recent studies, about half of them are taking pain medication on a daily basis. When asked in one of the studies, it was found that two-thirds of them said it was prescription medication.

What does that mean? That means that we have a huge problem in our country of opioid addiction, and that is keeping people out of the workforce altogether, tearing apart those families and causing crime in our communities.

The No. 1 cause of crime in my State of Ohio is the opioid epidemic. People are involved in things they would never dream of except for the fact that they have this addiction. It is shoplifting, thievery, and fraud. It is an issue that affects every part of our community. The point I wish to make more strongly is that it is affecting our labor market in a huge way.

One study by the Brookings Institution says that 47 percent of men are taking pain medication on a daily basis. That is not being over-reported—I will guarantee that—because of the stigma attached and the legal consequences for some of these individuals. So I think that 47 percent has to be viewed as a relatively low number. But isn't that shocking if it were 47 percent?

Another study by the Bureau of Labor Statistics, in the Department of Labor, stated that 44 percent had taken pain medication the previous day.

Now these numbers should be a wake-up call for us here in this Chamber, and

it should be a wake-up call to everybody, including the business community. As I go around my State, I am seeing firsthand what the Ohio Chamber of Commerce reported this week: Three out of four businesses want to add workers. Half of them want to add up to 25 workers, and they can't find workers. You have millions of people at historic levels who are outside the workforce altogether, leading to an unemployment number that should be 8.5 percent, instead of 3.9 percent.

How do you get them back in? I think those three things we talked about today are important, but, unfortunately, given the opioid epidemic in my State of Ohio and spreading around the country, I think this is probably the single largest problem that we face.

What are the solutions?

We have made major strides in the past year in this Chamber. We passed the Comprehensive Addiction and Recovery Act. We passed the Cures legislation. We are now working on additional legislation called Comprehensive Addiction and Recovery Act 2.0.

We are doing things we have never done before in terms of funding, recovery, treatment, prevention, and education, and we need to do more. We have begun the process of turning the tide, I believe, by some of this legislation.

We need to do more on the law enforcement side. We have legislation called the STOP Act, which simply says that with regard to the most difficult problem we now face in Ohio and around the country, which is synthetic opioids—think fentanyl or carfentanil—let's at least stop the Post Office for being a conduit for its coming into the country, because that is what is happening.

All the studies show—including the study we just did in our committee, spending a year studying this—that fentanyl is coming through the Postal Service—mostly from China, by the way—and poisoning our communities.

In Ohio, two-thirds of our deaths in Franklin County last year were from fentanyl. Sixty percent of the deaths in the State of Ohio as a whole the year before were from fentanyl. That is the biggest problem we have right now.

Just as we were making progress on prescription drugs, then, heroin comes along. Just as we were making progress on heroin, then, synthetic heroin comes along. It is cheap and incredibly powerful. Three flakes can kill you. It is being spread on other drugs, such as cocaine, crystal meth, and marijuana, which last week law enforcement in Ohio just confirmed. Can we do more? This is a big issue, but, yes, we are starting to take some steps.

Where we perhaps have an opportunity that we are not taking advantage of is to get the private sector and the business community to get involved in this effort, because Washington can and should do more, but the problem is not going to be solved in Washington. It is going to be solved at the local level, in our communities, in our families, and, ultimately, in our hearts. We can get the business community more engaged, as an example, by pointing out statistics: If you are looking for more workers, you are going to have to deal with this issue.

Many workers are not able to pass the drug test. So that is something the business community does understand. In fact, I just left a group of employers from Ohio about an hour and a half ago in my office, and I asked them the same question I asked of employers in our State: How many people can pass the drug test who show up? The answer was that about 30 percent can pass. Another said: 50 percent are not passing. These are different kinds of businesses. The second is a more heavily manufacturing business. So there are people with lower incomes or lower wages and, therefore, lower income individuals. But the point is that it is a huge problem passing the drug test.

What I say to them, which is what I will say today, is that it is bigger than that. There are millions of Americans not even showing up to take the drug test. They are sidelined, and we have to deal with this opioid epidemic.

So what should the business community do?

I have three ideas. One idea is to roll up your sleeves and get involved in your community on projects that do work. There is one in Columbus, OH, called the Maryhaven Addiction Stabilization Center. The business community got engaged. They took $1 million from the CARA Act. They leveraged that for foundation money. They have a place where they have a great success rate getting people from overdosing and the application of this miracle drug Narcan, which can reverse the effects of the overdose, and then go into treatment. Unfortunately, in most parts of the country, of the people who are revived by Narcan, the vast majority go back into the same environment. Here they have been able to figure out a way to have those who are overdosing get to a central location where, right there, where the detox center is, there is a door you walk through with 50 beds to get people into treatment. They claim an 80-to-90-percent success rate in getting people into treatment. Do they stay in treatment? Not all of them.

But that is the first big gap I see in the system. People fall out of the system. Narcan is applied by the first responders. They do the best they can, but it is not their job to get them into treatment. People go back to their community and overdose again and again. Talk to your EMS personnel and police officers. I assume they will tell you the same thing they tell me.

The business community was involved in that thinking. Let's look at this as a business process. How can we help to change this obvious problem we have in the current way that people who overdose are treated and taken care of? Every business ought to roll up its sleeves and get involved in a creative, innovative project like that.

Second, over the years, back in the 1980s and into the 1990s, there was significant private sector participation in a prevention and education program. Now, locally in my State of Ohio, some businesses are starting to think about how they can do this more effectively, I believe, nationwide. Columbus is coming up with some very good ideas.

We need significant investment from the private sector in a national messaging program, a prevention and education program. Back then, it was TV ads. You may remember the ''Just Say No'' program and other programs on prevention under President Reagan. Some of those ads were very effective. Some of you may remember the ad ''This is your brain. This is your brain on drugs,'' with fried eggs being cooked in a pan, which is your brain on drugs. It is not going to be TV ads today. There will be some TV. I hope it will be broadcast media in various ways. But there will be a lot of online communication because that is where most people are getting their information, particularly younger people. It should be a concerted effort that is based on good research, good science.

What is the prevention message that works out there? Part of the prevention message that works with some young people I talked to is the fact that all these street drugs are subject to the possibility of fentanyl being included in them. Some people are taking drugs they would never think were dangerous and yet becoming addicted through fentanyl. So there is now a danger out there, with any street drug, of ruining your life.

But there is a broader prevention message that we need private sector help. This place, again, has authorized more money for this. There is $10 million in CARA 2.0 for a prevention and education program. That is good, but it is going to take more than that. The business community and the private sector have a strong interest in this for so many reasons. One, as we have talked about today, is to have the workforce they say they desperately need.

There are other opportunities for the business community to get involved. Walgreens recently took a step that I thought was very important to limit the number of days on prescription drugs. Every single business that has a healthcare program has an opportunity to be involved in this and say: Let's limit prescriptions. Probably 8 out of 10 people who overdose from heroin or fentanyl today started with prescription drugs in terms of the opioid that got them started with their opioid addiction. There still is overprescribing with regard to prescription drugs. Have we made some progress? Yes.

Our new legislation, by the way, CARA 2.0, has a 3-day limit on prescription drugs for acute pain—not chronic pain but acute pain from an accident, an injury, or a procedure that

you might have. We have that in there because the Centers for Disease Control has new guidance out that shows that after the third day, the chances of addiction rise significantly. For the vast majority of pain associated with acute procedures, 3 days is plenty. In fact, for many acute episodes, no opioids at all are needed as long as you use other pain medication.

That is something every business that provides healthcare can do. Every business that has a pharmacy can say: Let's limit those prescriptions ourselves. They don't need a government program to do that. There doesn't need to be a government edict or mandate to do that. They can just do it.

I know this issue of the workforce is frustrating to a lot of employers out there. I know that the benefits of a great tax bill are creating more economic opportunities. A better regulatory environment is providing real relief and is growing the economy in such positive ways. Wages are starting to go up. We see economic growth numbers that are very encouraging, showing that, in fact, this legislation is creating more economic growth and therefore more revenue, higher wages—the things we all hoped would happen. The investment is happening. We are not going to be able to take advantage of all of that if we don't have the workforce out there.

When we have millions of Americans—8.5 million men between 25 and 55, able-bodied, as an example—who are on the sidelines, not even showing up to look for work, we are not going to be able to fulfill our potential in this country for our economy and for them and for their families to achieve their God-given purpose in life, to have the dignity and self-respect that come from work.

We listed four very specific issues today, how we need to address this issue of people who are sidelined, who are not in the workforce, but the one that I think probably has the most impact is the final one, and that is dealing with this opioid crisis. Unless and until we do that, we will continue to see people fall between the cracks, and we will see ourselves as a country not meet our potential.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I rise today to encourage all my Senate colleagues to vote to confirm Michael Brennan as a judge on the U.S. Court of Appeals for the Seventh Circuit. Michael Brennan has an exemplary resume, including degrees from the University of Notre Dame and Northwestern University School of Law, two Federal clerkships, work as a prosecutor, and almost a decade on the State trial court bench before returning to private practice. His accomplishments in practice are noteworthy, but I would like to focus my remarks today on Mike's commitment to public service and his reputation as a jurist.

Becoming a Seventh Circuit judge will not be a huge adjustment for Mike because he has already spent 9 years as a judge. Anyone who spends time with Mike will be struck not only by his intellect but by his humility and strong commitment to justice and the rule of law. This explains why the attorney general of Wisconsin and the State's public defender—fierce adversaries in the courtroom—were able to come together to write a letter enthusiastically supporting his nomination. I have a sense those two don't often agree, but when it comes to who they want deciding their cases, they both point to Mike.

By the way, that is just one of many letters that influential members of the legal community in Wisconsin have written in support of Mike's nomination. Included in the outpouring of support are letters from 2 former Federal defenders, 5 former U.S. attorneys, more than 40 judges, and 15 former presidents of the State Bar of Wisconsin, Democrats and Republicans—all joining together to support Michael Brennan's confirmation.

One letter, signed by over two dozen Wisconsin judges from across the political spectrum, sheds light on the kind of judge Mike has been and will continue to be. It states:

> To the litigants who appeared before him, Judge Brennan was a wonderfully kind and patient judge with a humble demeanor.

Another letter attests that those same qualities have now made Judge Brennan one of the most sought-after mediators and arbitrators in Wisconsin. I am sure the litigants in the Seventh Circuit will have the same experience and reaction to his hearing their cases.

In this climate that has hyperpoliticized the judiciary, I want to bring my colleagues' attention to one very important paragraph in the letter supporting Mike that was signed by Wisconsin judges. It reads:

> Finally and significantly, Mike is not an ideologue, and he has never worn his politics on his sleeve. You could ask any number of lawyers who appeared before him, or his colleagues who worked alongside of him, and they will confirm that Judge Mike Brennan never let his personal, religious, or political views influence his legal decision in any case. He is brilliant, experienced, hard working, and fair-minded. Rest assured, they don't come any better than Mike Brennan.

I agree with that assessment. We all know that type of bipartisan praise isn't given; it is earned. In Mike's case, his longstanding dedication to law and public service, coupled with his ability and temperament, has won him the support of many Democrats and Republicans in Wisconsin, and it has earned him the rating of unanimously ''well qualified'' by the American Bar Association. Let me cite a few statistics to prove the ABA rating is well deserved.

In Wisconsin, a party can ask for a different judge, and they can make this request for any reason. Of the 9,000 cases Mike heard as a judge, fewer than one-tenth of 1 percent—let me repeat that—fewer than one-tenth of 1 percent of the litigants decided to go with another judge. That is an extremely telling statistic about his even-keeled temperament, his neutrality, and his legal skills.

Judge Brennan's low reversal rate also demonstrates his commitment to following the law and his dedication to performing his job with excellence. In 2005, out of 240 trial judges, Brennan was the most affirmed judge in the entire State of Wisconsin. He was No. 1 out of 240. Of the 9,000 cases Mike heard as a judge, he was reversed in only a handful of cases—fewer than 20—and in some of those, the Wisconsin Supreme Court ended up reversing the court of appeals and reinstating Brennan's original decision.

As final proof of the strong bipartisan support Michael Brennan enjoys within Wisconsin's legal community, let me provide more extensive quotes from a letter of support my office received from former Milwaukee County district attorney E. Michael McCann. Mr. McCann is a lifelong Democrat who served as the elected district attorney of Milwaukee County for 37 years. He is recognized as one of the most distinguished and accomplished district attorneys in the entire country. This is what Mr. McCann had to say about Mike Brennan on first working with Mike Brennan:

> Key personnel in our office and I, in short order, became impressed with Mr. Brennan's high energy, his mastery of the law, his integrity, and his good judgment. As an assistant district attorney, he was assigned to some very challenging cases. Mr. Brennan continued to exhibit those qualities of scholarship, integrity, and judgment which had initially earned him our respect.

On Brennan's work as counsel for Wisconsin's truth-in-sentencing committee, Mr. McCann said:

> Mr. Brennan provided splendid research and appropriate materials to the committee and with his gracious manner moved the committee through its very substantial workload so felicitously that the contentious disputes I and others had expected simply did not occur.

On Brennan as a judge, McCann—whose office had lawyers before Judge Brennan every day—said:

> He was an excellent judge in all regards. He was properly respectful of lawyers, witnesses, victims and of the rights of defendants. His courtroom was a model of judicial decorum. In jury trials and trials to the court and in the hearing of motions, he was thoughtful, patient, knowledgeable, and scholarly. He had mastery of the law and was cognizant of the problems in the justice system. He was fair, unbiased, devoid of prejudices and committed to justice. The comparatively very few motions for change of judge filed in his court quietly speaks eloquently of the perceptions of lawyers and litigants that they were receiving justice from him.

Mr. McCann finished his letter by saying:

> I urge you to confirm this nomination. Michael Brennan is an honorable man of immense integrity, ideally qualified by fine intellect, even disposition, extensive judicial

experience, a strong work ethic, sound judgment, good character and a firm commitment to justice. He will be an excellent appellate judge.

This strong endorsement is not from a Republican; it is from a lifelong Democrat who is one of the two longest serving district attorneys in any major city in America.

Based on this record, based on those endorsements, I am hopeful that when my Senate colleagues fully study his background and see the same virtues that garnered such ringing endorsements, their review will produce a strong bipartisan vote to confirm Michael Brennan to serve as judge on the U.S. Court of Appeals for the Seventh Circuit.

Mr. President, that concludes my prepared remarks about what a quality judge and jurist Judge Brennan would be, but I just have to say that I am very disappointed at the partisan nature of the cloture vote. It was unfortunate that it was completely party line for somebody who, as I have described, has bipartisan support within the Wisconsin legal community.

The Judiciary Committee majority issued an excellent memorandum dated November 2, 2017. I would like to discuss and address the primary objection that led to that unfortunate party-line vote on cloture. I am really hoping our colleagues on the other side of the aisle will take this to heart and take the background—the bipartisan support from the Wisconsin legal community—when they cast their final vote on confirmation.

Mr. President, I ask unanimous consent to have printed in the RECORD the Judiciary Committee's November 2, 2017, memorandum.

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

To: Members of the News Media
From: Senate Judiciary Committee Majority
Date: November 2, 2017
Re: History and Context of the Blue Slip Courtesy

HIGHLIGHTS

The blue slip process is a courtesy extended by Committee chairmen, not a binding Senate rule.

Since the blue slip courtesy was created in 1917, only two chairmen (Sens. James Eastland and Patrick Leahy) had strict policies requiring two positive blue slips from home-state senators before the Judiciary Committee would consider a nomination.

In 25 of the 36 years before Senator Grassley became Chairman, chairmen have allowed hearings on nominees despite negative or unreturned blue slips.

The same senators who changed the Senate rules to ignore the views of 41 senators after evaluating a nominee now want to enable a single senator to block a nomination before the Committee can even review the nominee's background and qualifications.

HISTORY OF BLUE SLIP COURTESY

The blue slip represents an aspect of senatorial courtesy premised on an understanding that home-state senators are in a good position to provide insights into a nominee from their home state. Throughout its 100-year history, Senate Judiciary Committee chairmen have applied the courtesy differently. However, a vast majority of chairmen have not required two positive blue slips as a prerequisite for further consideration by the Committee.

Only two Chairmen—Senators James Eastland and Patrick Leahy—strictly required positive blue slips from both home-state senators before proceeding on a nomination. Senators Edward Kennedy, Strom Thurmond, Joseph Biden, and Orrin Hatch adopted policies that were more consistent with pre-Eastland policies, in which the lack of two positive blue slips did not necessarily prevent action on a nomination. (Senator Arlen Specter did not announce a blue slip policy during his two-year tenure as Chairman.) But Senators Biden and Hatch also emphasized the need for the White House to have engaged in consultation with home-state senators before they would allow a nomination to proceed without two positive blue slips.

1917–1956—ALL 11 CHAIRMEN—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

The blue slip was instituted during the 65th Congress by the Chairman of the Senate Judiciary Committee to obtain the opinions of senators on the nominees to federal courts located in their home states. The policy of all 11 chairmen for the next nearly forty years was that the return of a negative blue slip did not preclude the Committee's further consideration of a nominee. For example, in 1917, Senator Thomas Hardwick of Georgia returned a negative blue slip on a nominee for the Southern District of Georgia. The Committee nevertheless reported the nominee negatively to the Senate, where the nominee was rejected. In 1936, Senator Theodore Bilbo of Mississippi objected to a Fifth Circuit nominee, but the Committee nevertheless reported the nominee to the Senate, where he was confirmed.

1956–1978—CHAIRMAN JAMES O. EASTLAND—ALLOWED A NEGATIVE OR UNRETURNED BLUE SLIP TO BLOCK A NOMINEE

Chairman James O. Eastland changed the Committee's blue slip policy so that a negative blue slip or the failure to return a blue slip by one home-state senator was considered an absolute veto of a nomination.

It is not precisely clear why Chairman Eastland adopted this policy. But some scholars maintain that its purpose was to empower federal courts in the South to resist implementation of Brown v. Board of Education. Villanova Law Professor Tuan Samahon explains, ''[w]hen segregationist 'Dixiecrat' Senator John Eastland chaired the Judiciary Committee, he endowed the blue slip with veto power to, among other things, keep Mississippi's federal judicial bench free of sympathizers with Brown v. Board of Education.'' Because the Supreme Court ''largely delegated the task of implementing Brown to local federal trial judges . . . it mattered a great deal who sat on federal district courts in the segregated South.''

1979–1981—CHAIRMAN EDWARD M. KENNEDY—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

The blue slip policy was again revised under Chairman Edward M. Kennedy. During a Committee hearing in 1979, he stated:

If the blue slip is not returned within a reasonable time, rather than letting the nomination die I will place before the committee a motion to determine whether it wishes to proceed to a hearing on the nomination notwithstanding the absence of the blue slip.

Chairman Kennedy did not articulate an express policy with respect to negative blue slips, but there is at least one example of the Committee moving on a nominee despite the return of a negative blue slip. Senator Harry F. Byrd, Jr. returned a negative blue slip for a Virginia judicial nominee, but Senator Kennedy nevertheless held a hearing.

1981–1987—CHAIRMAN STROM THURMOND—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

Chairman Strom Thurmond announced that he would continue Senator Kennedy's blue slip policy and clarified that he would assume a blue slip that remained unreturned after seven days meant there was no objection. Chairman Thurmond proceeded on several nominees when senators returned negative blue slips.

In 1981, the Committee held a hearing and moved John Shabaz to the Senate despite a negative blue slip from Senator William Proxmire of Wisconsin. Shabaz was confirmed to a district court seat.

In 1982, the Committee held a hearing and moved John L. Coffey to the Senate despite a negative blue slip from Senator Proxmire. Coffey was confirmed to the Seventh Circuit.

In 1983, the Committee held a hearing and reported the nomination of John P. Vukasin, Jr. despite California Senator Alan Cranston returning a negative blue slip. The Senate ultimately confirmed Vukasin to a district court seat.

In 1985, the Committee held a hearing on the nomination of Albert I. Moon, Jr. despite both Hawaii senators returning negative blue slips.

1987–1995—CHAIRMAN JOSEPH R. BIDEN, JR.—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

Chairman Biden articulated his blue slip policy in a letter to President George H.W. Bush shortly after his inauguration:

The return of a negative blue slip will be a significant factor to be weighed by the committee in its evaluation of a judicial nominee, but it will not preclude consideration of that nominee unless the Administration has not consulted with both home state Senators prior to submitting the nomination to the Senate.

Chairman Biden proceeded on the nomination of Bernard Siegan to the Ninth Circuit despite Senator Cranston's return of a negative blue slip. The Committee rejected Siegan's nomination by an 8-6 vote. Likewise, Chairman Biden proceeded on the nomination of Vaughn R. Walker despite Senator Cranston's return of a negative blue slip. Although Chairman Biden said that Cranston's opposition would ''affect Walker negatively,'' the Committee held a hearing and reported Walker to the Senate, where he was confirmed.

1995–JUNE 5, 2001—CHAIRMAN ORRIN HATCH—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

At the start of his chairmanship in 1995, Senator Hatch sent a letter to White House Counsel Abner Mikva stating that he would follow the policy articulated by Chairman Biden in 1989 that did not preclude review of nominees with negative blue slips unless the Administration did not consult with home-state senators. In 1997, Chairman Hatch sent another letter to the White House that reaffirmed this policy and articulated in more detail what meaningful consultation should look like.

JUNE 5, 2001–2003—CHAIRMAN PATRICK LEAHY—ALLOWED A NEGATIVE OR UNRETURNED BLUE SLIP TO BLOCK A NOMINEE

Senator Patrick Leahy became Chairman in June of 2001 after Democrats took control of the chamber. He sent a letter to White House Counsel Alberto Gonzalez essentially endorsing Chairman Hatch's 1997 blue slip policy statement. But Chairman Leahy made statements to the press indicating he would

move forward only when he received two positive blue slips from home-state senators. During the 107th Congress, seven nominees (five circuit court and two district court nominees) did not receive hearings because of blue slip issues. In fact, Chairman Leahy went even further and stopped Committee action with respect to two Sixth Circuit nominees for seats in Ohio because the Democratic senators from Michigan objected.

2003–2005—CHAIRMAN ORRIN HATCH—COMMITTEE COULD CONSIDER NOMINEES WITH A NEGATIVE OR UNRETURNED BLUE SLIP

The Republicans again took control of the Senate after the 2002 elections, and Senator Hatch again became Chairman of the Judiciary Committee. Chairman Hatch reiterated that ''a single negative blue slip from a nominee's home state won't be enough to block a confirmation hearing.'' He said he would give ''great weight to negative blue slips'' but would not allow senators to hold up ''circuit nominees.''

Chairman Hatch held hearings and votes on five of the six circuit court nominees who had blue slip issues. For example, Chairman Hatch held a confirmation hearing for Sixth Circuit nominee Henry W. Saad despite negative blue slips from Michigan Senators Levin and Stabenow. The Committee voted to send Saad to the Senate floor, where the Democrats successfully filibustered him as well as each of the other nominees. At the same time, Chairman Hatch did not move on any district court nominees with blue slip issues.

2005–2007—CHAIRMAN ARLEN SPECTER—UNCLEAR WHETHER A SPECIFIC BLUE SLIP POLICY WAS ESTABLISHED

Senator Hatch stepped down as Chairman of the Judiciary Committee at the beginning of the 109th Congress due to term limits. Senator Arlen Specter became Chairman. It is not clear what Chairman Specter's policy was with respect to blue slips or if he even had a stated policy. At least one reputable secondary source indicates that, under Chairman Specter, a ''[n]egative blue slip killed a nomination for district court judges, but not necessarily for circuit court judges.''

2007–2015—CHAIRMAN PATRICK LEAHY—ALLOWED A NEGATIVE OR UNRETURNED BLUE SLIP TO BLOCK A NOMINEE

Senator Leahy again became Chairman of the Senate Judiciary Committee in 2007. He announced that he was reinstituting his policy that he would proceed on a nominee only when both home-state senators returned positive blue slips. During the 110th Congress, Chairman Leahy did not proceed on sixteen of President Bush's nominees (six circuit court and ten district court nominees) who did not have the support of both home-state senators.

Chairman Leahy continued this policy throughout his chairmanship. In 2011, he explained that his blue slip policy was meant to encourage consultation between the White House and home-state senators. But he also warned that he expected senators not to abuse the policy to delay filling vacancies. When the Republicans were in the minority from 2009–2014, Republican senators returned blue slips for 25 circuit court nominees, withheld a blue slip for one nominee (for lack of consultation), and rescinded positive blue slips for one nominee after his hearing (this seat was ultimately filled by another nominee of President Obama). (By contrast, Democratic senators have withheld blue slips for three circuit court nominees in the first ten months of the Trump Administration.) The Republicans' restrained use of the blue slip to block nominees meant that there was no need for Chairman Leahy to deviate from his strict blue slip policy. It is unclear what Chairman Leahy would have done had the Republicans abused the blue slip process for President Obama's Judicial nominees under Leahy's chairmanship.

BLUE SLIPS AND THE END OF THE FILIBUSTER

Since 1949, the Senate rules required a supermajority of the Senate to end debate for lower court nominations. This longstanding rule was the primary tool for senators in the minority party opposite the president to block nominees. Under this rule, senators who intended to oppose a nominee could return a positive blue slip in Committee and then filibuster the nominee on the Senate floor. For example, during the Bush Administration, Senator Feinstein returned a blue slip for Carolyn Kuhl, who was later reported out of the Committee. Feinstein and other Democrats then filibustered Kuhl's nomination on the Senate floor, preventing confirmation. In instances in which the Committee reported nominees with negative or unreturned blue slips, those nominees could still be filibustered by the full Senate. For example, in 2003–2004, the Democratic caucus, which was in the minority at the time, filibustered several of George W. Bush's nominees for federal court seats in Michigan for whom Senators Levin and Stabenow had returned negative blue slips. This practice helps explain why few nominees with blue slip issues have been confirmed by the full Senate.

However, in 2013, Senate Democrats, then in the majority, unilaterally abolished the rule, ending the ability of a minority of senators to block confirmation of a lower court nominee. The Democrats argued that a minority of senators should not be empowered to block nominees who earned majority support after the committee has reviewed a nominee's background and qualifications. One of the leading proponents of abolishing the filibuster, Senator Jeff Merkley of Oregon, defended the move by saying.

''Advice and consent'' was never envisioned as a check that involved a minority of the Senate being able to block a presidential [nomination].

A blue slip policy allowing a single senator to block a nominee from even receiving Committee consideration is a more extreme example of a counter-majoritarian practice.

By eliminating the filibuster rule, the Democrats removed a tool for the minority to block nominees with negative or unreturned blue slips after the committee has evaluated nominees' qualifications. They are now, because of their own actions, in the position of having to rely on an ahistorical interpretation of the blue slip courtesy at the Committee level to attempt to defeat nominees they oppose on ideological or political grounds before the full Committee reviews a nominee.

Mitchel A. Sollenberger, The History of the Blue Slip in the Senate Committee on the Judiciary, 1917–Present, Congressional Research Service 8 (Oct. 22, 2003).

Mr. JOHNSON. Mr. President, rather than read this excellent memorandum, which I would encourage my colleagues to do, let me give a brief history, a little summary of what that memorandum states on the history of the blue slip.

The blue-slip courtesy was created in 1917, so it has basically been around for 101 years. Only 2 of 18 Judiciary Committee chairmen have allowed the blue slip to become an absolute veto blocking consideration and confirmation of judges. Those two chairmen were James Eastland between 1956 and 1978—so that was for a 22-year period—and then Senator PATRICK LEAHY for about 10 years. So of the 101 years that the blue-slip courtesy has been around, for only 32 of those years has the blue slip been used as an absolute veto by any Senator.

Looking further at the history—and I think it is relevant to a confirmation for Wisconsin's seat on the Seventh Circuit—in 1981, Wisconsin Senator William Proxmire returned a negative blue slip on Judge John Shabaz, a nominee to be a district judge. The Senate took that negative blue slip into consideration, but the committee still held a hearing, and the Senate voted to confirm the judge as a district judge. The next year, 1982, Senator Proxmire again returned a negative blue slip on a circuit judge nominee, Judge John Coffey. Once again, the committee took that blue slip into consideration but still held a hearing, and the Senate confirmed Judge Coffey later that year.

It is apparent that a blue slip—historically and by precedent for two-thirds of the 101 years in which the blue slip has been around—has not been used as an absolute veto by one single Senator but basically as advice, a particular Senator's view on a judge. I would suggest that is exactly the way the blue slip should be handled in the future, particularly in light of Senator Harry Reid, the majority leader in 2013, who employed the nuclear option and changed the Senate forever. He changed the rules of the Senate as they relate to confirming nominations with a mere majority. That, in effect, eviscerated the blue slip's possibility of being used as a veto because then there was no way a minority could block or actually support and confirm that blue slip. Harry Reid's precedent of changing the rules of the Senate with just 51 votes—changing the rules so that only a majority vote would confirm a judge—has pretty well rendered the blue slip moot from the standpoint of being able to block a judge.

The blue slip, from my standpoint, should be used primarily as the advice and consent of one Senator expressing opinion on a judge from their State. That is just a general description of the history of the blue slip.

I would like to address specifically the comments made around this particular circuit court vacancy and my role in it because I think there has been a lot of distortion. Let me correct the record. It is true that this circuit court vacancy is the longest in history. It has dragged on for a variety of reasons, but let me give you the history.

On January 17, 2010, Judge Terence Evans retired from the Seventh Circuit. President Obama was in office, and Wisconsin had two Democratic Senators, Senator Kohl and Senator Feingold. Five days later, on January 22, those two Senators, Kohl and Feingold, recommended four candidates to President Obama.

On July 14, 2010, President Obama nominated Victoria Nourse for that

Seventh Circuit slot. Ms. Nourse was not really a member of the Wisconsin legal community. She was an adjunct professor temporarily in Wisconsin. There was some tie there, but basically she had no other ties to Wisconsin. She was actually a former staffer and would become a future staffer of Vice President Biden.

On November 2, 2010, Wisconsin held an election for the Senate. To Senator Feingold's surprise, he was retired; I replaced him. There was no action taken from the date of July 14, when President Obama had nominated Victoria Nourse. In a Senate with a majority of Democrats and a Democratic President, there was no action taken prior to Congress expiring—the 111th Congress. So that nomination expired.

On January 3, 2011, the 112th Congress was sworn in. Within a few days, I received two blue slips on judicial nominations—one for a district judge and Victoria Nourse's nomination for the Seventh Circuit judgeship. I had just been elected. More than a million Wisconsinites voted for me. I had no role whatsoever in the nomination of this judge. So I decided not to return the blue slip.

This was during a time period when Chairman LEAHY was using the blue slip as an absolute veto. It was still the precedent in the Senate that it would require 60 votes to confirm any judge. Any minority member of the Senate who objected to a judicial nomination would be backed up by his party, and the nomination could be thwarted.

I continued to work with Senator Kohl, trying to become involved in the nomination of someone who I felt would be more appropriate for that seat—someone who actually had a connection to the Wisconsin community. Unfortunately, Senator Kohl did not have a great deal of interest in working with me, so the entire 112th Congress passed, and the seat remained vacant.

Let me remind you that through the entire year of 2010, the Seventh Circuit seat from Wisconsin was vacant when we had two Democratic Senators and President Obama. They could have nominated and confirmed someone any time during 2010. I was given no input into this nomination. The only thing I could really do was withhold the blue slip and work with Wisconsin's Democratic Senator to come up with a nominee who would be a good consensus choice.

Senator Kohl decided not to run for reelection. Senator TAMMY BALDWIN was elected in November 2012 and began her term in 2013. Because I felt it was so important that the judicial nominations be made and that we have a process to work on a bipartisan basis, I recommended a commission—a compact with Senator BALDWIN, which she agreed to. I would have three commissioners, and she would have three commissioners of people tied to the Wisconsin legal community—people dedicated to filling those judicial vacancies. The beauty of it was that it forced a consensus pick. We would forward to the President only someone who would receive support from five out of the six commissioners. It worked well.

The commission was set up. We nominated and confirmed district court judges for the Eastern District, Pam Pepper, and the Western District, James Peterson.

It would be a little more difficult to fill the seat on the Seventh Circuit. Our commission started working on that. One part of our compact required that four recommendations for judges be sent to the President. Because the applicant pool was limited, only two received the requisite five out of six votes. During the discussion of what we should do—because we hadn't fulfilled the terms of the compact that required four judges—I agreed to submit just the two. For whatever reason, Senator BALDWIN decided to forward to President Obama all eight applicants. She breached the compact. She violated the confidentiality of the process because part of the problem was that some of those applicants received zero to one or two votes.

In the end, President Obama nominated Don Schott. He is a fine man. I have no problem with who Mr. Schott is, but let's be honest, he is probably not my first pick for a judge on the Seventh Circuit. However, because the commission had nominated him and agreed on it, I returned the blue slip.

Unfortunately, because of the politicization of the commission by Senator BALDWIN, the Senate Judiciary did not act on that nomination, nor did the Senate, and that nomination expired, which brings us to the 114th Congress and Judge Brennan's nomination.

Again, I have spent probably about 10 minutes reading in detail the strong bipartisan support for Michael Brennan. There is no reason whatsoever that he should not receive a strong bipartisan vote for confirmation. I have described what happened specifically. I described the general precedent of the use of blue slips—not to be used as a veto but simply to indicate a Senator's opinion of a particular judge nominated from their State. It should not be used for a veto.

I urge all my Senate colleagues to provide a strong bipartisan vote of support for a fine man, a fine jurist, and someone who will make a wonderful judge on the Seventh Circuit Court of Appeals.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. TOOMEY). The Senator from Missouri.

Mr. BLUNT. Mr. President, I have just seen the rarest of occurrences in the so-called debate on these nominees on the floor. We actually had an explanation of the nominee we would be voting on.

The fact that the Senate's time is taken in a way that it never has been before to process the President's nominations is outrageous. There is a view that we need more time to think about the nominee. There is plenty of time to do that. It is called the committee process. It is called a vetting process that also may very well take too long now, but there is plenty of time for these circuit court nominees we are voting on this week to be vetted. There is plenty of time to ask them questions. There is plenty of time to look into their backgrounds.

The only reason, in my view, that we take the time we are taking to do six votes on six judges in a week—that is six 15-minute votes. If we were efficient enough to do that, it would take an hour and half to vote on these six judges, and the final vote on none of them would be different than taking 5 days.

So why do we take 5 days? We take 5 days because that means we can't get to anything else. That means the President's ability to populate the government, as people elected him to do, is diminished. It also eliminates the time we have to do the other work the Senate is designed to do.

The Senate is in, as the majority leader likes to describe it, the personnel business, but that is not supposed to be the only business of the Senate. I think we have now had over 90 of these cloture motions on nominees that the President has made. What does that mean? In the first 2 years of each of the previous six administrations, there were a total of 24 cloture motions—24 times in six Presidencies in 2 years did we do what we are doing right now. That is an average of 4 times—we are certainly going to be up to 104 times well before the end of 2 years—the floor was abused in this way, an average of 4 times there was reason to have a debate.

I haven't looked back at those debates. I guess I should. Wouldn't it be shocking if those debates were actual debates? Wouldn't it be stunning if all four of those times in each of those six Presidencies, when the cloture motion was required and using the maximum time available was insisted on—or at least a substantial portion of the maximum time available was insisted on—wouldn't it be something if we looked back and found that there really was a reason to debate those nominees?

There might have been someone who was rejected, as John Tower was to be Secretary of Defense. If you were going to reject one of your colleagues in the Senate, that was probably a pretty debatable moment, and maybe it very well justified 20 or 30 hours, the maximum that could be insisted on. Now that is initially insisted on for everyone. Some of them take that time. Many of them take a portion of that time.

What is really lost is the other work that could happen in the course of the week. That is why in 2013 and 2014, when Democrats were in control of the Senate, a bipartisan group of Senators got together and said: Let's eliminate a lot of these confirmations that aren't worthy of Senate time. Let's take people who, when there were only one or two of them in the whole government

in 1882, might have been worthy of a Senate debate and Senate vote—let's take them off the list now that there are 210 of them to be confirmed. Let's take them off the list. Of course, neither of those numbers are numbers from the debate, but that is what we did.

Then let's put a whole other group on the list so that if no one demands a vote, they can be confirmed if the committee recommends they should be confirmed without a vote. We tried to eliminate the process so that we could focus in on that rare occasion when there really should be a debate on the Senate floor about these nominees.

At the end of this week, I will look to see how many minutes were actually taken talking about these six nominees. It doesn't mean that the six nominees shouldn't be talked about. It doesn't mean, when you are going to put someone on a court of appeals for life, that the Congress shouldn't look carefully at them, but that has already happened. In some cases, it happened months ago, and in other cases, weeks ago. That has already happened. This is just a matter of whether we are going to vote or not. No votes will be persuaded by running the clock. No votes will be changed by running the clock. Of course, the power to put people on a Federal bench for life is an important power given in the Constitution to the President for the Supreme Court and such other courts as Congress may determine the country needs. It is not something to be taken lightly, but it is also not something to be abused.

It is not a process where the protection you might use 4 times in 2 years is suddenly used 90 times in 15 months. Something is wrong when that has happened to the process.

At the end of the day, the Senate is a place where the minority deserves to be heard. The Senate is a place where the rights of the minority—it makes it a unique legislative body, just like electing only one-third of the Senate every 2 years makes it a unique legislative body. It takes a long time to change the entire Senate. It has always been one of the purposes of the Senate is to be sure the minority had a chance to be heard, and the minority is always able to hold on to that right until the minority decides they are going to abuse that right.

When a right becomes an entitled, ''Oh, it says we can have up to 30 hours of debate so we are going to insist on it every single time,'' that is when that right is in jeopardy. That is when you run the risk of losing that right.

NOMINATION OF GINA HASPEL

Also, today we are talking about a nomination in a committee that should look carefully at that. It is a committee I am on—the Intelligence Committee. It is the nomination of someone to run the CIA—the Central Intelligence Agency. It is critically important to the country. Actually, the President has nominated the most qualified person ever to be nominated to that job in the history of the CIA. She is someone who has spent her entire 30-plus-year career in the CIA, someone who has had almost every job you could have in the CIA, someone who has been at the front ranks in the most dangerous countries working for the Central Intelligence Agency, and someone who currently serves not just as the Acting Director but has been serving as the Deputy Director. Nobody has ever been nominated with that capacity.

When people look at the hearing that was publicly held today, I think they are going to see an individual who is incredibly prepared. They are going to see someone who needs no on-the-job training, someone who is not only running the Agency now day-to-day but someone who knows more about the Agency—the Central Intelligence Agency—than anybody has ever known who has held that job.

When we confirm Gina Haspel, and I believe we will—I know we should—there will be no on-the-job training necessary. She will run the CIA; the CIA will not run her.

Now, if any Member of the Senate—even Members who have been on the Intelligence Committee for years—went to the CIA, there would be a great likelihood that, at least for a while, the CIA would run them; that people at the CIA would say: Well, here is something we have to do; here is something we used to do; here is a box that has always been checked before. It takes a certain amount of time to determine why that may have been necessary, but it will take her no time to determine what is necessary and what is not.

She is nominated by the President, but she has been briefing since her boss became the Secretary of State and part of the time while he was the Director of the CIA. General Hayden is one of—virtually every past Director of the CIA, Democratic and Republican appointees, has said she is someone who should be confirmed.

In a quote I particularly like, Gen. Mike Hayden said she was the person he would want in the room when the President was making the decision. She would be the person whom I think you and I would want to be there understanding the facts. Sometimes we don't know all the facts, but all the facts we should know, and if anybody knows them, the Director of the Central Intelligence Agency should know them.

I said at the hearing this morning—this is a phrase I don't use very often, and I think it is overused, but if ever there is a moment when someone speaks ''truth to power''—if that is the right way to describe the discussion—that could certainly be the moment when the Director of the CIA, with a 32- or 34-year career there, would say to the President of the United States: Mr. President, that doesn't take into account all of the facts. Let's be sure we understand everything we need to know before you make that decision. That is truth to power.

Hopefully, we will get to that nomination. That may even be a nomination that would justify a 20-hour floor debate. We can certainly give 20 hours or 30 hours to every Member of the Senate who wanted to come to the floor to talk about that nomination, and it may be close enough that if it changed three or four votes, it would make a difference in the outcome, but in all likelihood, no votes would be changed. Believe me, this would be a debate where the country should really know exactly what they are getting when they get someone who has dedicated themselves to the Central Intelligence Agency and the country like Gina Haspel has, but that is a very different moment than the one we are in right now. The one we are in right now takes time and doesn't change any result.

I would just encourage my colleagues, let's get to work. Let's stop hearing that we don't have time on the floor to get our job done, where every time you turn on C–SPAN, more often than not, you see the Senate in what is called a quorum call, which is a very slow calling of the roll of the Senate because there is nobody here to say anything because we are using up someone's insisted-on 30 hours of debate.

Let's get to the business of the country. Let's do what we are—this is the greatest country in the history of the world, with the greatest capacity to impact the world of any country in the world.

When you turn on C–SPAN and look at what is happening in the U.S. Senate, it shouldn't be a blank screen because we are waiting x number of hours for people to cast a vote, and they already know what that vote is going to be. Let's take the time we need to debate the nominations we need to debate. Let's quit wasting the time and using the excuse of, well, we need to have thoughtful consideration of this nomination that, by the way, no one is going to come to the floor to talk about.

Senator JOHNSON may have set a new standard here. Certainly, when I checked just a few days ago, we had a debate on a very controversial nominee. This was the NASA Administrator. I think it passed by one vote. It was pretty controversial. We spent hours and hours for an open debate on the floor, and there were 17 minutes of debate on the floor—17 minutes in something exceeding 17 hours. No wonder people are frustrated with the way they would like to see their government work, the way the government should work, and the excuses we come up with to keep the government from doing what it ought to do in a way that people can openly see and be proud of.

I look forward to the quorum call no longer being the daily flag of the U.S. Senate.

Maybe, appropriately, seeing no one here, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.