

that 88 percent of Democrats, 77 percent of Independents, and 58 percent of Republicans think it is very important to maintain protections for folks with preexisting conditions.

So why are we even here?

Well, in June, the Department of Justice announced it would stop defending these critical protections in court. That is correct. You heard it right. A bunch of unelected bureaucrats have decided to stop defending the law of the land that protects folks with preexisting conditions. This decision not only harms millions of Americans, it threatens to create chaos in the marketplace and could drive up healthcare costs, not to mention it is a dereliction of duty.

Now, I know we all wake up some days, and we would just rather go fishing, but a job is a job, and you just can't decide it is not worth doing, especially when your job is to defend protections for millions of Americans and thousands of Montanans with preexisting conditions.

Montanans like Christina, from Missoula, who told me last week about how the Justice Department's decision could impact her husband who suffers from a chronic type of leukemia that can be managed but not cured. Christina wrote:

Six years ago, we started the cancer journey when my husband was diagnosed with CLL, a type of lymphoma/leukemia. Thankfully, he found work and is receiving the care he needs to manage his chronic disease that has no cure. But if he could be denied health insurance because of a preexisting condition, my husband probably would not have received the care he needs.

Karen, from Belgrade, MT, wrote something similar, saying:

I am very concerned about the DOJ's decision to no longer defend Americans against insurance companies who want to disallow people with preexisting conditions. I am a cancer survivor, as is my 22-year-old son. It is frightening to think that both of us may be uninsurable in the future if this trend continues.

Kim, from Helena, wrote me and said:

I have been a Type 1 diabetic for 35 years—and the burden is heavy. The cost of insulin continues to soar to the point that some people have to choose between their insulin or their rent, food, or other medication. I have good health insurance through my employer, which makes the financial cost of my diabetes manageable. But if preexisting conditions weren't covered, my next health insurer could simply choose not to cover my diabetes.

I am here to tell you, there are thousands of others in Montana like Karen, Kim, and Christina. In fact, a new report released today, also by the Kaiser Family Foundation, found that without current protections—without current protections—52 million Americans could be denied healthcare coverage because of a preexisting condition.

The report broke this number down even further and found that in Billings, MT—our State's largest city—one out of every four adults between the ages of 18 and 64 have a preexisting condition that could prevent them from get-

ting healthcare coverage if our current protections were repealed. That is not to mention the thousands of others who could be charged higher rates or denied reimbursement for care if these protections disappear.

Instead of doing their job and protecting folks like Kim and Karen and Christina, a bunch of unelected bureaucrats in the Department of Justice have decided to help repeal a law that it is their job to defend.

Well, if they will not protect Montanans, then we will. That is why I have helped introduce legislation that will authorize the Senate to intervene in next week's lawsuit and defend protections for people with preexisting conditions.

I would be the first to say that our healthcare system isn't perfect, but folks are no longer denied coverage or forced to pay higher premiums because of common ailments like high blood pressure, diabetes, or cancer, and the vast majority of Americans, on both sides of the aisle, want to keep it that way.

That is why a group of my colleagues from across the aisle introduced a bill last week to try and preserve some of these protections. That might sound good in theory, but in reality it will still threaten people with preexisting conditions.

That is why I am calling on my colleagues to pass our resolution, which will ensure folks with preexisting conditions get the coverage they need. The thousands of Montanans and millions of Americans who rely on these protections deserve nothing less.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

REMEMBERING JOHN MCCAIN

Mr. SASSE. Mr. President, like so many here today, I rise to honor John McCain and to sing John McCain's praises.

There are many here—most here—who knew him longer than I did. I will admit that when the Presiding Officer and I first got here in 2014, I knew John McCain as somebody from the history books. I knew John McCain as somebody destined for the history books. I knew John McCain as an American hero, but I didn't know John McCain, the man. I didn't know John McCain, the flesh and blood, genuinely hilarious guy, but over the past 48 months, I had the privilege of actually getting to become friends with John McCain.

It is sort of weird to say, when you are roughly our age—I am 46 and John McCain was an octogenarian—that he befriended me. I went on many overnight flights with John McCain. I have been to refugee camps with John McCain. I have been to war zones with John McCain. I have been cussed out by John McCain lots of times. He called me a stupid bastard on a regular basis—and he meant it, affectionately. I am convinced he didn't use the term

“stupid bastard” lightly. He reserved it for those he really cared about.

I have laughed and cried with John McCain. I have wrestled policy with John McCain. I got to grill hamburgers and serve them to troops in Afghanistan on the Fourth of July with John McCain.

As we in this body praise John McCain today and for the rest of this week, as we rightly should, there will be a lot of people talking about his time in the Hanoi Hilton.

John McCain was in prison to fight for our freedom for more than 5 years. He was in solitary confinement for about 3 years. He was tortured for years. If you have ever met any of the POWs who were in the cells around him, almost to a man they credit the fact that they didn't lose their minds during that time to the fact that John McCain kept them sane. He kept them stable.

John McCain told me a story one time on one of those overnight flights—and he has told it to many other people around here—about tap code, which is sort of akin to Morse code, but new folks in the Army learn tap code. It is a way to spell out a five-by-five grid: You can put letters together and make words, make sentences, and make paragraphs.

John McCain thought it was very important that the men who were in prison with him would learn to tell each other stories—they would tell poems they knew from their youth; they would tap out songs they knew from when they were kids—because if they had a sense of history past, they would have a sense of hope and history future. John McCain kept those people sane.

I remember one time hearing him wax on and on about this story, and I was just in awe of how long it must have taken to persuade these men that they were going to teach each other songs and poetry from their youth. I said: How long did it take to do that?

He looked at me like I was just a complete idiot, and he said: What did I care? What the hell did it matter to me? We had infinite time, you moron.

He didn't say “you moron,” but it was clear: How do you not get that time was the one thing that just was completely irrelevant when you are in prison? If something takes too long, that is a virtue, not a liability.

One of the things we don't tell here and that we need to tell more is the connection between how he thought about time and why he acted the way he acted as a Senator. If we want to honor John McCain around here, one of the most basic things we should do is recognize that the reason he didn't suffer fools lightly is because he had a concept of time that was—as a man who had spent 5½ years in prison, he wanted to redeem the time. After he was released, he wanted to make sure he spent all of his time on big things.

His impatience, his volcanic temper flowed directly from the fact that he

thought life was too short to waste on small stuff, and if you were willing to do small stuff, he was going to get up in your grill.

So the fact that John McCain is a hero because of the way he endured torture on our behalf and the fact that John McCain worked really hard on big issues and often ran over people rudely in his interactions with them in the Senate—those things were inextricably linked. If we are really going to honor John McCain, we have to understand that his impatience was a huge part of what he saw as his mission—to serve his fellow Americans.

So how do we honor this man? There is a lot of talk around here right now about what we should do to honor John McCain, and it is an important conversation. My understanding is, the two leaders are going to get together and put together a commission to deliberate over the next many weeks or months about the proper way to honor John McCain. I am glad they are doing that.

There is a lot of discussion about renaming a building after him or renaming a different committee room after him, and some of those tributes may be the right tributes. I am not meaning to prejudge that right now. Obviously, there is something just hilarious about the idea that a Senate office building may be renamed after John McCain because if you had the “McCain SOB,” it is obvious what John McCain would want you to call that McCain SOB building all the time.

So there are important things to talk about. Yet I want to urge one bit of caution, which is: We should not think that what John McCain would want us to do in this time and place is in any way reducible to marble because just as America is not the sum of her cities, so, too, the U.S. Senate is not the sum of its buildings. The U.S. Senate is not the places where we meet.

As John reminded us in his farewell charge, read posthumously yesterday, America is an idea. America is a cause. America is about liberty. America is about justice. America is about universal human dignity. Even though John could often run over you, when you were having a debate and an argument if you were in his way, probably more than any person I have ever met John actually believed in universal human dignity.

The reason he was so big on the global stage is because he stood on a tradition 230 years long, announcing what America believes: There are about 7½ billion people who are created in God’s image with universal dignity, and that applies to everybody everywhere. It isn’t America’s job to fix every problem everywhere, but it is certainly part of America’s mission in the world to proclaim that universal human dignity, and that is what John did. That was a huge part of his calling.

Unfortunately, we know all too well that when the public looks at this institution right now, when the public

looks to this city, they don’t see a place that looks like its beating heart is to proclaim that universal American idea, to proclaim that American sense that everybody is created with infinite worth, and though we know that, we are not doing that much about it.

In this institution, most of the time we finger-point, we don’t problem-solve, and the public is groaning for us to do better. The last few years should be blinking red lights for all of us who are privileged to serve here for a time.

When the American people look at Washington, they rightly think it is shady for Cabinet members and their spouses to be raising money from foreign sources.

When the American people look at Washington, they rightly think there is a whole lot of shady going on and that people’s taxes and finances ought to be disclosed when they are running for an office of public trust.

When the American people look at Washington, they don’t see most Members of Congress as stewards of the public trust but rather as hypocrites with taxpayer-funded sexual lawsuit settlements.

When the American people look at Washington, they think it is weird that the average Member of Congress has an investment portfolio that grows much faster than the market average, and when people leave jobs in this institution they often head for “cush” jobs on K Street rather than moving back home, which is where they said they were going to end up after they ran for office.

We have seen multiple indictments across both the legislative and executive branches just in recent weeks in this town. Is it any wonder the American people look at us and wonder if we really care about the crisis of public trust? Is it any wonder that John McCain was impatient with the pace of us tackling big problems in this place?

We obviously have a truncated week here, and many of us are headed to Arizona for a funeral in the next few hours so I will not introduce anything now, but I want to say that when we get back, and as this Commission gets kicked off trying to figure out the proper way to honor John McCain, I plan to make a proposal that we should find a way to honor John McCain not just in marble. Maybe that is a step that is important, but if John McCain were here, I submit to you that John McCain wouldn’t be all that concerned about what names and placards and signs we put up on buildings and meeting rooms.

I think we should find a way to honor John McCain in a way that John McCain would have seen fit, and that is we ought to pass a piece of legislation that we wouldn’t have passed absent this moment. We ought to come together, in a bipartisan way, and we ought to do something that makes both political parties really uncomfortable.

That was one of the things John McCain was great at. This man is gone

and we are surely poorer for it, but we can do something big that is in line with the spirit of how he wanted to disrupt this place. If we wanted to make both parties uncomfortable—and John was a guy who loved to point both barrels at both parties—I think we can find a way to do that in a way the American people will applaud, and I think that might be the right way to honor John McCain.

His willingness to take on everybody and all the sacred cows in this town was why a lot of people hated him, but it is why a lot more people loved him. I think, if we are going to honor his spirit, we ought to find a way to do something that is big and disruptive and uncomfortable for Washington, DC.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, as a lot of my colleagues, I rise to speak for a short period of time about our deceased colleague, Senator John McCain.

I begin my remarks by paying my respect for our colleague and friend, Senator John McCain. A great American has died.

Senator McCain represented the people of Arizona and the United States of America with great honor, always holding his ground and sticking to his principles. “Sticking to his principles” have been the words used by more colleagues since his death than any other description of him. Senator McCain was tough and tenacious, both as a 32-year Member of the U.S. Senate and also as a member of the U.S. Navy. His grit and determination as a prisoner of war in Vietnam are legendary and ought to be an inspiration. For the rest of his life, he understood from his own experience what it takes to keep a country safe, and he stood up for the security of the United States, and, in turn, that was standing up for the security of the world.

He prioritized those in uniform and the veterans who safeguard our Nation. I had tremendous respect for Senator McCain’s leadership of the Armed Services Committee and for the many ways he led on the No. 1 responsibility of the Federal Government: our national defense.

Senator McCain and I served in the Senate together since 1986. Even after he became ill last year, Senator McCain’s charisma was as strong as ever. At Christmastime, he greeted me with an oft-repeated joke he had since he was a candidate for President and traveling around Iowa. He learned a lot about Iowa, and this greeting was something like: Well, Chuck, I had my glass of ethanol for breakfast. He would often say to me something he learned in Iowa about advertising by the John Deere corporation: Nothing runs like a Deere. Of course, being from Iowa, I liked to hear that sort of greeting, and it was often that he said those things to me.

As I stand here today with his Senate desk close at hand and draped in his

honor, my wife Barbara and I share our condolences with Cindy McCain and Senator McCain's entire family. Senator McCain sacrificed so much of himself for his country, and we are grateful for his lifetime of service.

NOMINATION OF BRETT KAVANAUGH

Mr. GRASSLEY. Mr. President, I rise on another matter that I have addressed the Senate on quite frequently lately, and that is about Judge Brett Kavanaugh.

One week from today, Brett Kavanaugh will appear before the Senate Judiciary Committee for the first day of his confirmation hearing. After reviewing Judge Kavanaugh's very extensive record, I am convinced he is perhaps the most qualified person ever nominated to the Supreme Court.

Some of my colleagues on the other side, including all of the Democratic members of the Judiciary Committee, have asked that I delay Judge Kavanaugh's hearing. They have asked me to delay the hearing because of legal issues surrounding some of President Trump's former associates. It is absolutely not clear to me what one has to do with the other. But this is, by my account, at least the third strategy Democratic leaders have used to try to delay Judge Kavanaugh's hearing.

Liberal outside groups, if you recall, announced their opposition to every one of the 25 potential nominees before the President made his decision. Those 25 potential nominees were, for the most part, given to the people of the country probably 6 months before the President's election. No other President has told you the types of people he was going to put on the Supreme Court and given you those examples. Some Democrats joined these outside liberal groups, and many others announced their opposition immediately after the nomination.

The minority leader, before he even had a chance to meet with Judge Kavanaugh or review Judge Kavanaugh's record, said that he would fight the nomination with everything he has.

Democratic leaders' first strategy was to try to argue that the Biden rule, which bars the confirmation of Supreme Court Justices in a Presidential election year, also applies during midterm election years. This was a strange argument to make given that many of those Senators argued in 2016 that the Biden rule didn't even exist for Presidential elections.

Fact checkers and outside observers widely rejected their argument. The historical record was clear: The Biden rule has never applied during midterm election years.

The second strategy Democratic leaders pursued was to attempt to bury the Judiciary Committee in irrelevant paperwork—mountains of it. I have discussed the issue at length previously, so I will only give you a bottom line.

The bottom line is, we have received more pages of documents from Judge Kavanaugh's time as an executive branch lawyer than we did from any previous Supreme Court nominee. In fact, we have already received over 430,000 pages of Judge Kavanaugh's executive branch legal records, which is nearly as many as the last 5 nominees combined. This is on top of the 307 opinions he wrote and hundreds more he joined as a judge on the DC Circuit over the past 12 years. The public already has access right now to every one of those more than 10,000 pages of judicial writings, as well as the nearly 18,000 pages we received in connection with his judicial questionnaire. Those were supplemental to the 110 pages he filled out in the questionnaire. By the way, that happens to be the most robust questionnaire ever issued to a Supreme Court nominee.

Democratic leaders now are asking me to delay Judge Kavanaugh's hearing because of some of the President's former associates' legal troubles, but this is just another obvious and opportunistic attempt to push the confirmation process past the midterm elections. After all, both Justice Ruth Bader Ginsburg and Justice Stephen Breyer were confirmed while President Clinton was personally under investigation for the Whitewater controversy. In fact, Justice Breyer was confirmed while President Clinton's personal documents were under grand jury subpoena. Moreover, between June 1993 and February 1999—a period during which President Clinton faced significant legal jeopardy—the Senate confirmed 248 district judges and 50 circuit judges for lifetime appointments.

It is clear that the Democratic leaders' latest attempt to delay the confirmation is unsupported by law or history.

Another reason Democratic leaders have focused on these issues is to divert attention from the great record and abilities of Judge Kavanaugh. They know that Judge Kavanaugh is exactly the type of Justice the American people want because that is what the Constitution calls for—somebody to interpret the law, not to be a superlegislator.

Judge Kavanaugh has served for 12 years on the DC Circuit Court of Appeals—a court many consider to be the second most powerful court in our country. During that time, he authored more than 300 opinions and joined hundreds more. The Supreme Court has in at least a dozen separate cases adopted legal positions advanced by Judge Kavanaugh in his opinions. Historians of the Supreme Court would say that is a very impressive record.

Judge Kavanaugh has demonstrated that he understands the proper role of a judge. I also would say he sees himself as a judge and not a superlegislator. In numerous opinions and in speeches and publications, Judge Kavanaugh has eloquently expressed that judges must find and apply the

law as it is written, not how they wish the law were written. If they followed how they wish the law were written, that would fall into a category where I would say a Judge becomes a superlegislator.

Judge Kavanaugh recently said this on that point: "When courts apply doctrines that allow them to rewrite the laws (in effect), they are encroaching on the legislature's Article I power."

If you ever wonder why judges shouldn't be superlegislators, that is because they have lifetime appointments. If you don't like what they do, you can't vote them out of office; whereas if the legislating is done by the Congress of the United States and you don't like the laws the Congress passes, you can vote those Members of Congress out of office.

Judge Kavanaugh has also argued that judges must apply the same approach to all cases. He said this: "Like cases should be treated alike by judges of all ideological and philosophical stripes, regardless of the subject matter and regardless of the identity of the parties to that case." Judge Kavanaugh's judicial record reveals that he follows his own advice. He decided cases based on his understanding of law as written, not his own personal policy preferences or who the litigant is.

In addition to his impeccable qualifications and record of achievement, Judge Kavanaugh has shown a dedication to public service, mentorship, and diversity. He spent all but 3 years of his legal career in public service. He volunteers his time to coach both his daughters' youth basketball teams, and he serves meals to the homeless with Catholic Charities. Judge Kavanaugh is a proven mentor to law students and young lawyers. Judge Kavanaugh has taught courses at Harvard Law School on separation of powers and the modern Supreme Court since 2008.

The Senate Judiciary Committee received a letter in support of his confirmation from his former students. They wrote this:

We . . . represent a broad spectrum of political and ideological beliefs, as well as perspectives on judicial philosophy. We may have differing views on political issues surrounding the confirmation process, but we all agree on one thing: Judge Kavanaugh is a rigorous thinker, a devoted teacher, and a gracious person.

But this letter goes on with other things that are important about Judge Kavanaugh, so I quote again:

Both inside and outside the courtroom, Judge Kavanaugh evinced a genuine warmth and interest in his students and their careers. . . . He was exceptionally generous with his time, making himself available to meet with students not only to discuss the class, but also to assist with their scholarly writings or to offer career advice. In many instances, he has continued to provide advice and support long after the class ended by writing letters of recommendation and serving as a valued mentor. In our view, his genuine interest in helping young lawyers demonstrates a deep commitment to the legal community as a whole.