

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

Mr. LEE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

[Rollcall Vote No. 226 Leg.]

YEAS—50

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

NAYS—50

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

The resolution (S.J. Res. 63) was rejected.

The PRESIDING OFFICER. The majority whip.

ORDER OF PROCEDURE

Mr. CORNYN. Madam President, I ask unanimous consent that notwithstanding rule XXII, the cloture vote with respect to the Clark nomination occur at 2:15 p.m. today.

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

RECESS

Mr. CORNYN. Madam President, I ask unanimous consent that the Senate stand in recess as if under the previous order.

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

Thereupon, the Senate, at 12:27 p.m., recessed until 2:15 p.m., and was reassembled when called to order by the Presiding Officer (Mr. COTTON).

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the

Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General.

Mitch McConnell, James Lankford, John Hoeven, James M. Inhofe, Johnny Isakson, David Perdue, John Cornyn, Steve Daines, John Barrasso, Mike Rounds, Thom Tillis, Lamar Alexander, James E. Risch, Jeff Flake, Richard Burr, Roy Blunt, Deb Fischer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Ms. HEITKAMP), the Senator from Florida (Mr. NELSON), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 227 Ex.]

YEAS—53

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

NAYS—44

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

NOT VOTING—3

| | | |
|----------|--------|-------|
| Heitkamp | Nelson | Wyden |
|----------|--------|-------|

The motion is agreed to.

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 44.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Jeffrey Bossert Clark, of Virginia, to be an Assistant Attorney General.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, I seek recognition to speak at this time.

The PRESIDING OFFICER. The Senator from Massachusetts.

S. 3021

Mr. MARKEY. Mr. President, I rise to convey my strong support for the America's Water Infrastructure Act, which passed Congress earlier today.

With communities throughout Massachusetts and the country working to improve the quality of their drinking water, bracing for rising seas and more intense storms, and seeking to be more competitive in the global economy, this legislative package will provide welcome relief and support for critical infrastructure.

I have long focused on providing resources needed to improve the maritime linchpin of my State's economy: Boston Harbor. But this economic engine needs direct Federal funding to fire on all cylinders, especially as we transition to a new, supersized shipping era.

Two years ago, the Panama Canal completed an expansion project that allows bigger vessels, called post-Panamax ships, to pass through the canal. These ships, which are the length of aircraft carriers and can carry more than three times as much cargo as their competitors, are too large to dock at Boston Harbor today. That is why, in the 2014 Federal water resources bill, I fought to authorize \$216 million in Federal funding for the Boston Harbor improvement project, which will deepen the harbor to accommodate those post-Panamax ships. I am pleased that my provision dedicating an additional \$16 million to this crucial project was included in the 2016 water resources bill.

The Boston Harbor improvement project is projected to double the harbor's container volume, protect and grow 7,000 jobs, and generate \$4.6 billion in economic activity throughout the New England region. It is a simple formula: Larger ships mean more cargo, more cargo means more commerce, and more commerce means more jobs for Boston and the State of Massachusetts.

I am pleased that the Corps has to date allocated \$91 million of funding to this critical project thus far, but deepening the harbor alone does not ensure that the Port of Boston can accommodate these new, gargantuan giants of the seas. We must also deepen the berths, the area where the ships dock. That is why I am proud to secure a provision in this bill that will allow the port to construct more expansive berths, and I am pleased to help secure

a \$42 million Federal grant to expand these berths.

By no means is Boston Harbor the only coastal gem in Massachusetts. In 2020, we will be celebrating the 400th anniversary of the voyage of the *Mayflower* and the settlement at Plymouth, but the celebration won't be complete if the ships can't get into and out of Plymouth Harbor. Regrettably, Plymouth Harbor has filled up with so much sand that ships are having trouble navigating—including the centerpiece of the celebration, the newly restored *Mayflower II*. That is why I secured a provision in this bill requiring the Corps to dredge this important landmark for the 400th anniversary. Just a few months ago, I helped secure \$14.5 million needed to ensure that this hallmark of American history is swiftly deepened.

With this statutory requirement and funding, Plymouth Harbor will be able to host a great birthday party in 2020—one that Americans from all corners of the country and people from around the world are going to attend. But those Bay Staters living on Cape Cod will most likely experience a little traffic on the way to the event because Cape Cod is only accessible by two bridges, which span the Cape Cod Canal. If Cape Cod is the arm of Massachusetts, then these two bridges are the vital arteries delivering the island's lifeblood. The strength of those two bridges will determine the strength of the island's economy and health and well-being.

Regrettably, these two 80-year-old bridges, which are owned by the Army Corps, are structurally deficient. That is a problem for businesses that need an uninterrupted flow of commerce and residents who must have a safe means of evacuation in the event of an emergency. Imagine if there were an accident at the Pilgrim Nuclear Power Station or the equivalent of a Hurricane Maria. These two bridges are the only way for many Cape Cod residents to escape to safety.

I am proud that this bill includes my provision directing the Corps to replace these critical evacuation routes, helping preserve the very safety of island residents. In a time of emergency, Massachusetts residents shouldn't have to think twice about the best way to get their families to safety.

The bill also includes legislation that I have authored to help protect consumers from unjust and unreasonable increases in their electricity rates. Right now, if the Federal Energy Regulatory Commission has a vacancy—as is currently the case—and deadlocks 2 to 2 on whether to improve a rate increase, the increase goes forward. To make matters worse, the public can't even challenge a decision in this circumstance. That is exactly what happened in New England in 2014, leading to a \$2 billion increase for our region's consumers.

My legislation would fix that by allowing the public to bring a challenge

when FERC deadlocks, as they can for every other FERC decision. In sports, a tie isn't a loss, and the Fair RATES Act will ensure that a tie at FERC won't mean consumers lose with higher electricity rates. We must ensure that ratepayers are protected from unjust and unreasonable increases in energy prices. The legislation will help return the power to the people when it comes to energy prices by providing an outlet for consumers to challenge rate increases.

I thank Senators MURKOWSKI and CANTWELL for working with me to move this legislation forward, and I thank my great partner in the House of Representatives, Congressman KENNEDY, for his tireless work to address this issue and to protect consumers.

I am pleased that this legislation contains several other key provisions that increase the funding caps for three coastal protection programs, allowing the towns of Salisbury, Newbury, and Sandwich to implement larger beach-nourishment projects—pumping sand onto the beach—to protect their communities; reevaluate the Muddy River environmental restoration project to pave the way for reauthorizing this crucial project; permit the town of Sandwich to use sand pumped from the Federal Cape Cod Canal that otherwise would be dumped in the ocean to fortify their town from rising seas; ensure that the Corps takes on all the costs to repair the town of Sandwich's beaches, which experience severe erosion due to the jetties at the mouth of Cape Cod Canal; and require the EPA to appoint liaisons to minority, Tribal, and low-income communities so these disenfranchised groups can have better access to the resources and tools provided by the Federal Government to improve the quality of our Nation's drinking water.

From fortifying our communities, to dealing with the present-day impacts of climate change, to eradicating the environmental contaminants of the 20th century from our water infrastructure, this legislation package will provide the funding and direction needed to help modernize the Commonwealth's water infrastructure.

I thank Chairman BARRASSO and Ranking Member CARPER for working with me on this important legislation. I was proud to vote in favor of America's Water Infrastructure Act today. It is something that I think is going to work very successfully for the State of Massachusetts. It is something that, in my opinion, is the quintessential example of how bipartisanship should, in fact, animate the legislative process in this body.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

S.J. RES. 63

Ms. MURKOWSKI. Mr. President, just a little bit ago, a few hours ago, we had a matter before the Senate relating to S.J. Res. 63. This was a resolution of disapproval, which would have worked to disapprove of the rule that was issued jointly by the Treasury, Labor, and Health and Human Services regarding these short-term, limited duration insurance plans.

I had hoped, actually, to have an opportunity to speak to this prior to the vote but was not able to. I want to take just a couple of minutes this afternoon to weigh in on this issue from an Alaskan perspective. I think there have been some suggestions that with this rule in place, those of us who care about protecting those with preexisting conditions, somehow or another, are taking these protections away.

I have weighed this carefully. In fairness, I think some of the arguments that have been made are, perhaps, not quite as clear cut as would be suggested and, perhaps, certainly, in a State like mine, where we still have the highest healthcare costs in the country and some of the highest costs for coverage in the country.

I think Members here in the Senate know full well that while I have opposed many aspects of the Affordable Care Act, I have supported and have strongly supported certain parts of it as well. Again, one of those things that I feel very strongly about is the need to ensure that we protect those who have preexisting conditions. That is a debate that, I think, is ongoing in other places as well. Yet I want to make clear that, certainly, my vote this morning is in no way meant to erode or undermine where I am coming from when it comes to preexisting conditions.

Back to the situation that we face in Alaska, as I mentioned, we are the highest in terms of the cost of care and the highest in terms of the cost of coverage, and we are still one of those States that has but one insurer on the exchange in Alaska. So our options are, really, pretty limited. As I am speaking to individuals about what they are hoping for when it comes to coverage, they are looking for additional options, but they are looking for affordable options as well.

It is true—it is absolutely true—that these short-term plans do not offer as much or, certainly, may not offer as much in the way of coverage as those plans that are offered on the individual exchanges. I understand that, but I have had to come down on this issue on the side of more choice for consumers and more options being a good thing for consumers.

In Alaska, our population, as one knows, is relatively small. We have about 720,000 people in the whole State, but we are talking about 18,000 people, give or take, who are enrolled on the individual exchanges each year. The

universe here is 18,000 people when we are talking about the exchanges. In the year 2016, which was the most recent year about which the IRS can give us information, there were about 15,000 people who chose to pay the individual mandate penalty rather than to buy the insurance. Think about what that means. They are weighing this, and they are saying: I would rather pay a fine, pay that penalty. It is not that I don't want the insurance, but I cannot afford it.

So you had 18,000 people on the individual exchanges, and 15,000 people chose to pay the individual mandate penalty rather than buy the insurance. That is because, if an Alaskan does not get the subsidy—and a pretty heavy subsidy—the exchange plans just aren't affordable. Even though you want to have that coverage—you want that insurance—wanting it doesn't necessarily get it to you if you cannot afford it.

The average premium for plan year 2018—this is according to CMS data—is \$804 per month. What am I getting from constituents, from folks who are writing in to me and calling me? They are telling me what they are paying for their plans. For a family of four, the premium was over \$2,000 a month, with a \$7,500 deductible. Think about what that actually means for this family, for folks with those kinds of bills, who, basically, only have catastrophic coverage, as it is. Again, you think about the number of folks on the individual exchanges, and you think about those who choose not to pay the fines. You look at the numbers of those who receive the subsidies in the State of Alaska, which is quite considerable.

We also have about 10,000 or so Alaskans—this is according to the State division of insurance—who have enrolled in healthcare sharing ministries. This is yet another option for people out there. A significant number has turned to these healthcare sharing ministries, and these folks have managed to avoid the penalty in prior years. In fairness, some of the ministry plans do not provide much in the way of coverage, but it is an indicator of what people feel they have to do in the face of just very, very high-cost plans.

I understand where those who oppose this rule are coming from, and I have had good, long conversations about this. I guess I would ask that they turn to the realities that we are facing in a State like Alaska and just appreciate where people are coming from when you think about the 15,000 Alaskans who have chosen not to buy insurance over these past few years because it has been too expensive, but they want to have something they can afford. These short-term plans, while not ideal—I am not suggesting that they are—are an option for them to consider.

What about the people who don't get subsidies and are paying over \$50,000 per year before their insurance covers anything? That too is a situation in which they are looking for alter-

natives. So perhaps these short-term plans could be a viable option. For the 10,000-some-odd people who are currently using a sharing ministry, again, these types of plans could be an alternative. For the people who may choose to drop off the individual exchanges next year, these plans could be a path forward for some having some level of coverage.

Again, I am not saying that this is perfect, and I am not saying that this is ideal. I am saying it offers a limited option in a place in which we have very few affordable options to turn to.

Another reason these shorter term plans are helpful for us and why I have heard from so many Alaskans on this is that we are a State in which our employment base is very, very seasonal.

You have a construction industry, but it is not like it is back here. Construction is, maybe, 6 months out of the year—longer in some parts of the State and shorter in other parts of the State. Yet you have a seasonal job.

Our fishing industry is a great example. If you are working in the processing end of fishing, it may be 3 months. If you are working as a crabber, it may be 2½ months. If you are working on a tender up in Bristol Bay, it may be a very truncated 2 months.

Then we have the tourist season. Again, we would like to think that we can entice you all to come up year round, but quite honestly, it too is very, very seasonal. So we need to have some level of flexibility for those many, many Alaskans who move between many of these seasonal employment opportunities.

Under the prior rule, a short-term insurance plan could only last for 3 months. That is not going to help out, say, those in the fishing or in the tourism industry or, again, in so many of these areas in which you need longer term coverage but you don't need a full year. So flexibility is something that people have been asking for as well. Where that sweet spot is, I am not sure. I am telling you that, for us, 3 months doesn't make it. Maybe 3 years is too long. Maybe we do need to look at that. I happen to think that we do, but that is an area that is open for review.

The last point I would make is that I think we have to have some trust in both our States as regulators and in individuals, the consumers. The rule that we were speaking about this morning really does allow States to have a great deal of leeway in regulating at the local level. We are seeing that among many of the States. I had a long conversation with our director of insurance up in the State of Alaska. We talked about where our State might take this and looked again at, perhaps, the length of these short-term, limited duration plans and how they might be regulated.

Also, there is the transparency side of this, and this is something that concerns me. Some of the things we have

heard are that people have bought these less expensive plans, these shorter term plans, and then, when they need them the most, they realize the coverage doesn't take care of them. That is also not a place we want anyone to be. Making sure that there is a level of transparency, that there is a level of disclosure that is real and not just the tiny boilerplate that nobody can understand—it has to be, again, transparent in that way.

I think this is one of those areas where trusting in our laboratories of democracy, which are our States, to tailor plans that fit a State well should not be an action that we here in the Senate are so unwilling to take.

As we look to how we do more in this Congress and how we do more to help those for whom healthcare—the cost of healthcare and access to healthcare—is still their No. 1 issue, still the No. 1 subject of discussion, I have come to speak on this particular issue today because there are maybe 25,000 people in my State who could see some benefit from these types of plans being available and also because I believe that trusting the regulators, certainly in my State, to handle the plans intelligently is an important part of how we move forward as well.

I wanted to put that on the record today following the discussion from earlier this morning and the vote at noon.

CONFIRMATION OF BRETT KAVANAUGH

Mr. President, I want to transition really quickly and just take a minute because last week, as we all know, was a very difficult time in the Senate as we processed the nomination of Judge Kavanaugh to serve on the U.S. Supreme Court.

That vote has concluded. Judge Kavanaugh is now Justice Kavanaugh, and I truly wish him all the best as he begins his new term on the highest Court in the land. But there is a residue—I don't know if it is a residue. I don't know how we make sure we are able to move forward after difficult votes that divide us all and work to come back together.

I am going to speak very directly about my friend who sits right here next to me on the Senate floor. She and I went through, probably, a similar deliberative process. It was probably the same as everybody else here on the floor, but we perhaps shared more discussion about it than I did with other colleagues. At the end of the day, we came down on different sides, but both of us—both of us—agonized over the decision and the process.

She is now enduring an active campaign against her. It is not just an active campaign against her, but there are protests at her home every weekend, and she cannot travel without a police escort.

I made comments as I prepared for the final vote last week. I said: We are better than this. We have to set the example here.

I am really touched that after I had taken a hard vote within my caucus,