faster increase than hospital stays, doctors' visits, or any other cost in the healthcare sector.

This spending doesn't just have an impact on patients. It accounts for a large portion of our national economy. In 2017, the national health expenditures totaled $3.5 trillion. That is 18 percent of our gross domestic product. Prescription drugs account for 10 percent of our total health expenditures, more than $330 billion. They have an impact on our entire country.

The Senate Finance Committee is digging into the reason behind those rising costs. The journey a drug takes from research and development to the manufacturing plant, to pharmacy shelves, and to our medicine cabinet is enormously complicated. I wonder whether it is complicated by design. Once a consumer has purchased a drug, figuring out who gets each dollar spent practically requires the forensic skills of a Sherlock Holmes.

What I find particularly concerning, and something we spoke about at length today, are the rebates and other discounts provided by manufacturers. Pricing from one pharmacy to another can be wildly inconsistent, and rebates are often the root of the problem. In another context, what is now called a rebate might be called a kickback. Rebates are the key to determining if a particular drug is covered by your insurance, and that can impact therapies that you have access to. Despite the impact they have, the terms of rebates are mostly cloaked in secrecy. I don't think that is an accident. If you ask pharmacy benefit managers and plans about rebates, they will argue that overall they are a good thing and can help lower insurance premiums across the board. The issue, though, is that the extra money has to come from somewhere. So list prices are often raised to cover the difference. When that happens, the consumers are the ones who take the hit. For everything you pay within your deductible—and many deductibles in this post-Affordable Care Act era are up in the thousands of dollars—you pay 100 percent of the retail cost. You get zero benefit from the rebate. As the list price goes up, your out-of-pocket costs go up. That is why the stories of families struggling to cover costs are becoming more and more prevalent.

Some of the people who suffer the most from the rebate system are people who take insulin. Diabetes is one of the most common and pernicious illnesses in our healthcare system in America today. Because we eat too well and exercise too little, many people develop diabetes, and the only treatment is to take insulin. Unlike most of the prescription drugs out there, insulin is a biologic, meaning it is generally more expensive to make and more expensive to buy.

A few weeks ago, I spoke here on the Senate floor about a woman from Indiana who came to the first hearing we had on prescription drug costs, Kathy Sego. She told us about her family's struggle to pay for her adult son's insulin. Even though this drug has been around for nearly a century, a 1-month supply for Kathy's son Hunter costs her family $1,700 out of pocket.

Unlike many brand-name prescription drugs that have lower-cost alternatives, like a generic, insulin does not. Part of our discussion at today's hearing was the topic of ''biosimilars,'' or what could be considered a generic version of a biologic type of drug. As the FDA is moving to make insulin subject to biologic competition in the future, I asked our witnesses about this move and how it could potentially serve as a solution for families like Kathy's, who struggle with the out-of-pocket costs and copays as a result of the insulin with which they treat their diabetes.

As part of that effort, last week, Chairman GRASSLEY and Ranking Member WYDEN launched a bipartisan investigation into insulin prices. In letters to leading insulin manufacturers, they requested information on the recent price increases—some as high as 585 percent.

As I expressed today to one of the representatives from the drug company, I understand the need for drug companies to do research and development and that because they are granted patents for these innovative cures that they come up with, they have the exclusive right to sell those drugs during the terms of the patents. Yet I don't understand why a drug that has been around for decades, like insulin, still costs $1,700 for somebody to pay each month on an out-of-pocket basis, and where we have seen recent price increases as high as 585 percent, it makes absolutely zero sense to me. I am eager to hear from these manufacturers and other players in the pharmaceutical system about why these prices are rising so rapidly and how we, in working together, can provide relief to families who bear the brunt of manufacturers' decisions.

I conclude by saying that I also had an interesting conversation with one of the witnesses from the drug companies, the manufacturer of HUMIRA. HUMIRA is one of the best-selling drugs in the world for the treatment of rheumatoid arthritis and other things. The company that makes HUMIRA earns $18 billion a year in revenue from the sale of HUMIRA. When I asked why it was necessary for the company to have more than 100 different patents to cover that drug when the drug is essentially the same molecule, the gentleman representing the drug company did not give me a satisfactory answer.

I can understand the importance of recouping those R&D costs and the benefits of providing a patent for a reasonable period of time to recoup those costs and make a profit. I am OK with that. Yet, when you see the patent system being manipulated in a way that maintains that exclusive right to sell that best-selling drug by a drug company, that causes me grave concern. I have talked to Chairman GRAHAM of the Judiciary Committee, which has jurisdiction over patent-related issues, and he told me he would work with me to find a solution to gaming the patent system in order to protect that exclusive right to sell a drug beyond the normal patent period because it is, ultimately, the consumers who are being cheated and being denied access to the lower cost drugs.

As with insulin, there is no good reason why, after all of these years, consumers have to see price increases approaching 585 percent. We need answers to those questions, and we will get answers to those questions.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum be rescinded.

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

NOMINATION OF ERIC D. MILLER

Mr. DURBIN. Madam President, I rise in opposition to the pending nomination of Eric Miller to serve on the Ninth Circuit Court of Appeals in a seat based out of the State of Washington.

If the Senate chooses to confirm Mr. Miller, it will be a historic decision because it will be the first time ever since the introduction of blue slips over 100 years ago that the Senate has confirmed a nominee who is not supported by either of the home State Senators from the State in which he will be seated.

What is a blue slip? It is basically a consultation with the Senate before we move forward on a nomination. It is a courtesy that has been extended. It is an effort to try to find some common ground, some understanding, perhaps some moderation when it comes to the choice of nominees. It has been abused in some cases, but the two Senators here—Senator CANTWELL and Senator MURRAY—are well known in this body for being reasonable people who try to find solutions to problems and work well with both sides of the aisle. Yet, in this case, the Trump White House has decided that they are going to push this nominee for the Ninth Circuit in their home State of Washington against their wishes. If Mr. Miller is confirmed, we will have taken away yet another guardrail in the Senate advice and consent process.

If you follow what has happened in the Senate over the last 2 years and a few months, you know that the highest single priority of Senator MCCONNELL's—the Republican leader—is to fill the Federal judgeships, to put in place men and women who will serve literally for a lifetime, as long as they live. He is determined to do it. There is a template for the people who they find acceptable. If you have been a law

clerk for Clarence Thomas, you check the box, you are ready to go—a lifetime appointment. If the Federalist Society decides you are the right person for the Supreme Court of the United States, box checked, off we go.

Instead of relying on common sense, moderation, and judgment, we are going through a formula here to put people on the bench for a lifetime—those who have been approved on the Republican side of the aisle. Make no mistake—under Democratic Presidents, we look to nominees who are closer to our value system, for sure, but we never walked away from the blue slip process until this nominee—the first time ever it has been done.

We have seen so many things change under the Republican leadership in the Senate when it comes to the selection of judges.

We used to say that if you are found unqualified—not qualified—by the American Bar Association, forget it. Go about your business. Do something else. We are not going to put you on the bench for life. Well, we have decided, under the Republican leadership, that is no longer the case. Simply being unqualified is not enough to disqualify you.

We have also said that when it comes to the process of making these decisions, we will have hearings where we will consider multiple candidates in the same day. Let's run them through. Of course, you know what happens when you do that: You get in a hurry, and you end up putting people on the bench for life who shouldn't be there.

We have also decided in this White House that we will send people off to be Federal judges who have never been in a courtroom in their lives—not once. Maybe they watched ''Perry Mason'' on some retro channel, but that is about as good as it ever was for some of them.

I recall one of the nominees from the Trump White House. It was a moment in the history of the Senate Judiciary Committee. Senator JOHN KENNEDY of Louisiana asked him some basic questions about what it meant to be a judge and some of the things he would have to rule on. It was a sad moment. It reminded me of my worst days in law school when I didn't know the answers to the test or to the question being asked by the professor. This nominee, thankfully, withdrew. He never should have been nominated.

In this case, when it comes to Mr. Miller, neither of the Washington Senators returned a blue slip on him, and they have a reason. He is 43 years old; he may serve on the bench for three decades or more. In his relatively short legal career, he has demonstrated that his views are far outside the legal mainstream, particularly when it comes to one legal issue—the issue involving Indian Tribes.

I don't know if you watched the Oscars, but I did, and I was watching for a movie that I saw that I was impressed with. It was called ''Roma.'' It was a movie about Mexico. It received quite a few awards, and I thought it deserved them. It raised some painful questions for people living in Mexico. I know because I have spoken to Mexican Parliamentarians at a dinner a few weeks ago. It is the treatment of indigenous people.

Most countries in the world, including the United States, haven't written a very admirable record when it comes to the treatment of people who were here before we ''arrived.'' What we have done to Native Americans in this country, sadly, is nothing to brag about. They were dispossessed, relocated for their lands, and many times treated in the poorest possible fashion. The movie ''Roma'' was about indigenous people of Mexico who are servants, and some would say slaves, to families who have more money in Mexico. So the question of the treatment of Native Americans is not something that we can just push back in the pages of history; it still confronts us in the United States today, as it does in other countries, like Mexico and Australia and so many others.

So what does this have to do with this nominee? It turns out that in a rare moment, the National Congress of American Indians weighed in against Eric Miller for this circuit court nomination. The National Congress of American Indians opposed his nomination. Here is what they wrote in a letter to the Judiciary Committee, and I want to quote it in its substance:

> Our concern is that he chose to build a law practice on mounting repeated challenges to tribal sovereignty, lands, religious freedom, and the core attribute of federal recognition of tribal existence. His advocacy has focused on undermining the rights of Indian tribes, often taking extreme positions and using pejorative language to denigrate tribal rights. Indeed, his law firm website touts his record, with over half of his private practice achievements coming at the expense of tribal governments. Given his strong preference for clients who oppose tribes, there are considerable questions about whether he would be fair in hearing cases regarding tribal rights.

You might say to yourself: Well, that has to be a narrow area of the law—Tribal rights—and if he happens to consistently get that wrong, how important could it be?

Take a look at the fact that he has aspired to be a nominee to the circuit court—the second highest court in the land—in the Ninth Circuit. The Ninth Circuit includes 427 of the 573 federally recognized Tribal nations of America. That circuit he aspires to for a lifetime appointment hears more cases involving Tribal issues than any other Federal circuit. It is deeply troubling to see a Ninth Circuit nominee whose impartiality on Tribal legal matters is in question.

Mr. Miller's nomination is opposed by not only the National Congress of American Indians; he is also opposed by a broad array of civil rights, environmental, labor, and other organizations that are concerned about his record and legal views. He is 43 years old—43 years old—three more decades to hand down decisions.

It is astonishing that the Senate would vote to confirm a nominee this controversial over the objection of home State Senators and to break a century-old tradition in the Senate to do it. These Senators represent millions of people in the State of Washington. Their good judgment has been recognized by election and reelection. But when it comes to having a voice in the selection of a circuit court nominee who will be serving their State for the next three decades, they have been shunned and pushed aside.

I think the Republican majority is making a mistake. They are so bound and determined to fill these vacancies that they are abandoning basic Senate traditions—which, in fact, will slow things down from time to time, I am ready to admit, but also put at least a note of caution into a critical judgment process.

Blue slips encourage consensus and cooperation between the Senate and the White House. There isn't a single one of us serving in the Senate who hasn't counted on that cooperation to make sure that lifetime appointments to the Federal judiciary are people who can stand the test of time. Although they may not agree with any Senator every single time, they bring judgment, experience, balance, and moderation to their service. Blue slips ensure that the voices of the American people, through their Senators, are heard in this process, and they help steer the nomination process toward the middle of the road. Without blue slips, the White House can ignore home State interests and pick extreme judges who do not have the confidence of that State's legal community.

This decision—for the first time in a century—to abandon blue slips for the sake of putting this man in a lifetime position on the circuit bench could affect every one of our States someday. I can't understand why my Republican colleagues want to diminish their authority, their ability to safeguard against judges who should not be appointed for life. That is what we are doing on the vote to confirm Eric Miller to the Ninth Circuit.

I will oppose his nomination. I urge my colleagues to do the same, if for no other reason, so that when the time comes—if it ever comes—that you ask for the respect of this body when it comes to the selection of an important Federal judge, you will receive it regardless of who the President may be.

Madam President, I yield the floor.

I suggest the absence of a quorum.

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

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

183RD ANNIVERSARY OF TEXAS'S INDEPENDENCE FROM MEXICO

Mr. CRUZ. Madam President, this Saturday, March 2, the great State of

Texas celebrates the 183rd anniversary of its independence from Mexico.

Texas became a free republic—for 9 years our own nation—and soon after became one of these United States.

As is tradition, in commemoration of the brave Texans who fought and died for liberty and the rule of law, let us reflect a moment on the immortal words of Colonel William Travis, the leader of the besieged forces at the Alamo. His clarion call for reinforcements resounded around Texas and still rings with strength today.

Indeed, it has a special place in my heart because the very first time I spoke on this Senate floor, I read from Travis's letter from the Alamo. It was during Senator RAND PAUL's extended filibuster in defense of individual liberty. It fit then, and it fits now. It is a letter that has stood for the ages—written to us today, demanding that we stand with all good and free people against oppression and reminding us that there are some things worth dying for.

The letter reads as follows:

Commandancy of the Alamo,
Bexar, February 24th, 1836
To the People of Texas & All Americans in the World:

Fellow citizens & compatriots—I am besieged, by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual Bombardment & cannonade for 24 hours & have not lost a man.

The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demand with a cannon shot, & our flag still waves proudly from the walls. I shall never surrender or retreat.

Then, I call on you in the name of Liberty, of patriotism & everything dear to the American character, to come to our aid, with all dispatch—The enemy is receiving reinforcements daily & will no doubt increase to three or four thousand in four or five days.

If this call is neglected, I am determined to sustain myself as long as possible & die like a soldier who never forgets what is due to his own honor & that of his country—Victory or Death.

William Barret Travis
Lieutenant Colonel Commandant

P.S. The Lord is on our side—When the enemy appeared in sight we had not three bushels of corn—We have since found in deserted houses 80 or 90 bushels & got into the walls 20 or 30 head of Beeves.

Travis

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF ERIC D. MILLER

Mr. MURPHY. Madam President, there have been some days recently when I kind of wonder why we even show up to the Senate any longer. This job is not what it used to be.

When I get the chance to read about the history of the Senate, I read about these things called debates that we used to have on the floor of the Senate. I read about something called an amendment, which apparently is a way that an individual Senator calls up a proposal or an initiative and puts it on the floor for an up-or-down vote.

Those things don't really happen anymore in the U.S. Senate. We don't have open-ended debates on the big policies of the day.

I get it. When Republicans control the Senate, they control the agenda. When Democrats control the Senate, they control the agenda. At the very least, I would have hoped that the Senate majority, now in Republican hands, would put their policy initiatives before the Senate so we could have an open debate. That doesn't happen any longer. All we seem to be doing these days is voting on judges.

Now, that is a really important function of the U.S. Senate, and I am glad we are doing it, but today we are going to do something truly exceptional, which causes me, once again, to wonder what my job here is and to feel a little bit of sadness as to how it has changed and how much less substantive the input of each individual Senator is in the direction of this country.

Today, for the first time in the history of blue slips, we are going to vote and, I assume, confirm a judge who didn't get one blue slip from either of the home State Senators from which that judge comes from and is going to serve.

This has never happened before. Yet today we will vote on Eric Miller's nomination to be a judge on the Ninth Circuit from Washington. He is 43 years old, so he is going to be there for an awfully long time.

Eric Miller did not get a blue slip from either of Washington's Senators. Let me say that again. That has never happened before in the Senate. In fact, the last time a judge was confirmed without both blue slips was in 1989. That was the last time before this Congress that any judge was confirmed without both blue slips.

In that instance, it was a Democratic chairman of the Judiciary Committee who was confirming a judge over the objection of another Democrat. This is very different. These are two Democratic Senators from Washington, neither of them returning a blue slip on Eric Miller. Yet the majority has decided to go ahead and proceed with this confirmation.

This is a serious break with precedent. The last time Democrats controlled the U.S. Senate, Chairman LEAHY was the head of the Judiciary Committee, and he did not hold a single hearing on an Obama nominee who did not have two blue slips—didn't hold a single hearing even when there were exceptional circumstances. There was one time when Senators initially returned the blue slips but later rescinded them. Those are two Republican Senators who submitted them, rescinded them—did not go forward with the nominee.

There was another circumstance in which Senators had recommended a nominee for the district court but then refused to submit blue slips when that judge was elevated to the appellate court. Once again, Senator LEAHY honored that precedent.

Now Republicans have already taken advantage of Senator LEAHY's decision to uphold precedent. I will just give you a couple of examples.

In the Seventh Circuit, Michael Brennan was confirmed for a seat that had been held open by Republicans since 2010. So, had Chairman LEAHY decided to move forward without blue slips, that Seventh Circuit seat could have been filled, but because he upheld tradition, it was left open, filled by Republicans.

Similarly, for a district seat in South Carolina, Marvin Quattlebaum was confirmed to a seat that had been held open by Republicans, again, since 2013.

So Republicans have already taken advantage of the fact that Democrats upheld the blue-slip precedent, but now they are taking it a step further.

In the past, when Republicans have changed the rules here, as they did on the number of votes required to elevate a judge to the Supreme Court, they claimed it was because Democrats started it. I don't agree with that rationale. If you found the change for district court nominee so objectionable, I am not sure why you would decide to go further, but there is no excuse of that kind here. This is just a brash power grab because there is no claim that Democrats, when they were in the majority, violated the blue-slip principle. This is a fresh violation of tradition here in the Senate.

There is a reason we give deference to home State Senators. In these States and in these districts, there are particular issues that are important to their constituents that may be unique to their area in which they have more knowledge than the rest of us do. Some of the reasons Senators MURRAY and CANTWELL are so concerned about this nominee are his extremist views on the issue of Tribal sovereignty, which is a very big deal in the State of Washington, and the idea that they are going to have somebody sitting in the Ninth Circuit who has these extreme views on limiting the rights of Tribes is of great concern to their constituents. That is why, traditionally, we have allowed for individual Senators to have that kind of voice and that kind of say. No longer.

I would just hope that my Republican friends understand how this works. Once the rule is gone, once the tradition is gone—listen, I am a relatively junior Senator here, so I don't want to speak for those who are going to be the chairman and ranking members of committees in the future, but I would imagine it is not coming back. I would imagine—once we get through today and Republicans have decided that individual Senators, unless they happen to be a member of the majority party,