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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who has been our help in ages past and our hope for years to come, keep our lawmakers under the canopy of Your care. We do not ask You to separate them from life's stresses and strains but to keep them by Your grace amid sunshine and shadow.

Lord, shelter them in their coming in, in their going out, and in their daily work, that they may be Your instruments to advance Your Kingdom. May they call You during turbulent times, claiming Your promise to deliver them. Encompass them with the everlasting arms of Your love and grace that never fail.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mrs. HYDE-SMITH). Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMPROVING PROCEDURES FOR THE CONSIDERATION OF NOMINATIONS IN THE SENATE—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. Res. 50, which the clerk will report.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 50) improving procedures for the consideration of nominations in the Senate.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. will be equally divided between the two leaders or their designees.

The Senator from Iowa is recognized.

H.R. 268

Mr. GRASSLEY. Madam President, I would like to speak for 1 minute.

Senate Democrats yesterday blocked a bill that provides much needed funds for Puerto Rico's nutrition program, also, aid for the 2018 hurricanes and wildfires and, thirdly, assistance to Midwest States in the midst of a flood crisis. That includes, at least, Iowa, Nebraska, Missouri, and maybe other States.

Now, the people who voted against it say it was because they care about Puerto Rico. The bill they blocked takes care of the urgent funding shortfalls there in that Commonwealth. Playing politics with disaster aid does a disservice to the people of Puerto Rico and the people of States like Iowa who are suffering right now from these floods.

Why would these Senators want to come to campaign in Iowa when they don't show sympathy for Iowans suffering from the floods with the vote they cast last night?

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

H.R. 268

Mr. MCCONNELL. Madam President, last night the Senate had an opportunity to pass an important package of disaster relief funding for communities all across our country. Unfortunately, it didn't happen. Our Democratic colleagues voted down the efforts of Chairman SHELBY and Senator PERDUE to put together a comprehensive package, and it remains unfinished business.

As recently as 1 month ago, some congressional Democrats had expressed a clear commitment to immediate, bipartisan action on disaster relief, and the package considered yesterday represented a long list of priorities from actually both sides of the aisle—the only such list that had the President's explicit support.

It would have helped local schools, hospitals, and transportation infrastructure get back up and running, farmers and ranchers recoup losses, and our Nation's military restore readiness at bases and installations in harm's way. It would have been an immediate and significant step forward for the coastal communities of Florida and the Carolinas that are still picking up the pieces after a devastating hurricane season and for the western communities, as well, besieged by wildfires, for the families in Puerto Rico who rely on nutrition assistance that is dwindling, for those in the path of last month's tornadoes in Alabama and Georgia, and for large swathes of the heartland still grappling with floodwaters.

So I am disappointed that political games carried the day yesterday, but I assure the American people that our work on this subject is far from finished.

NOMINATIONS

Madam President, on another matter, 217 days—217 days—is how long has elapsed between President Trump's sending the Senate his nomination for a Federal Railroad Administrator and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

this body's confirming him. For 217 days, a 45-year veteran of the railroad with unquestioned expertise sat and sat on the Senate calendar. He wasn't controversial. He had been voice-voted out of committee. He was the kind of nominee on which even the prospect of having to file cloture should have been laughable, but my Democratic colleagues wouldn't let him get a vote.

Finally, after about 7 months and several high-profile railway accidents, our colleagues across the aisle finally relented and let this nominee go forward. After all those months of obstruction, not a single one of them ended up recording a vote against him. No one voted against him. So it was 217 days for an unquestionably qualified nominee for a seriously important job whom literally no one really opposed.

Call it a case study in the Senate's dysfunction when it comes to President Trump's nominees. If anything, the case study actually is not extreme enough because at least this person was eventually confirmed without a completely pointless cloture vote, followed by even more time supposedly debating a nominee on whom Senators do not actually disagree.

Perhaps more illustrative might be the cases of unobjectionable district court nominees whose nominations were slow-walked through months of idle time, only to receive unanimous support when it finally came for confirmation votes.

Last January, four such nominations came before the Senate. Each was noncontroversial. Each was well-qualified. Each, nevertheless, required a cloture vote. Yet after weeks on the calendar, each passed without drawing a single ''no'' vote. No one opposed them, and yet it took a week.

These were four of the historic 128 cloture votes on nominations we had to hold on nominations in this administration's first 2 years—128. This is comprehensive, across-the-board heel-dragging like nobody in this body has ever seen before. It is more than five times—five times—as many cloture votes on nominations as in the comparative periods—listen to this—for Presidents Carter, Reagan, Bush, Clinton, Bush, and Obama combined—combined. In other words, it is systematic obstruction, not targeted, thoughtful opposition to a few marquee nominations or rare circumstances but a grinding, across-the-board effort to delay and obstruct the people this President puts up, even if they have unquestionable qualifications and even if the job is relatively low-profile.

As I said last week, I am sure every Presidential election this side of George Washington has left some Senators unhappy with the outcome, but never before, to my knowledge, has the unhappy group so comprehensively tried to stop a new President from assembling the very basics of an administration—hundreds and hundreds of days in Senate purgatory for uncontroversial nominees to mid-level posts and months of delay for lower court nominees who go on to receive unanimous confirmation votes.

This behavior is novel. It is a break from Senate tradition, and it is something this body needs to address, not just for the sake of this President but for future Presidents of any party, because at this rate, the Senate is flirting with a dangerous new norm.

Today it may be Senate Democrats who are intent on endlessly relitigating the 2016 election and holding up all of these qualified people, but absent a change, these tactics seem guaranteed to become standard practice for Senate minorities on both sides. I don't think any of us want that future.

We need to stop things from deteriorating further. We need to fix this. We need to let the President assemble his team and let the American people have the government they actually voted for. We need to turn back toward the Senate's institutional tradition in this vital area for the sake of the Nation's future.

My Republican colleagues and I joined with Democrats back in 2013 and supported the same sort of modest changes to our nominations process through the same sort of standing order. Were we overjoyed that President Obama had just won reelection? No, but we still thought he deserved to stand up a government. So a big bipartisan majority—I voted for it—including the leaders of both parties agreed to trim the postcloture time on lower-level nominees. I was the minority leader. It was a Democratic President. I voted for it.

Supreme Court nominees weren't touched, nor circuit courts, nor top executive branch posts, but for district court judges and lower-level executive jobs, even as Republicans were in the minority, many of us agreed to test out an abbreviated process for President Obama's nominees.

The process that we agreed to then is very similar to the resolution the Senate will vote on later today. As I have discussed, Senators BLUNT and LANKFORD have proposed a similar set of changes to fix the current mess that would also become permanent going forward. Their resolution would make the Senate more functional and more consistent. The rules that were good enough for President Obama's second term would also apply under President Trump and every other President into the future.

I would submit to my colleagues that a modest reform like this is either a good idea or it isn't. The answer can't be flip-flop back and forth depending upon which party occupies the White House.

So I will conclude this way. I believe that every one of my colleagues knows that our present situation is unhealthy for this body and for any administration. I believe every Member of this body knows that the precedent that is being set is unsustainable.

So, look, I would urge all of our colleagues on both sides: Why don't we do the right thing for the Senate? Let's show the country that partisanship is not poison to absolutely everything. Let's demonstrate that the U.S. Senate can still take a modest step to improve its own workings on a strong bipartisan vote and do it through regular order. We did it in 2013 when the roles were reversed. We should do it again this week.

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

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

IMMIGRATION AND CUSTOMS ENFORCEMENT

Mr. CORNYN. Madam President, we have spent a great deal of time in my time in the Senate talking about immigration and the situation along the southwestern border. My State has 1,200 miles of common border with Mexico, so obviously this is very personal to me and my constituents who live and work along the border.

We have been caught up in a lot of semantics and more than a little politics in Washington, DC, debating what is a wall versus a fence, what is a crisis versus an emergency—just some of the semantics we have been caught up in—but it doesn't take a rocket scientist or an expert to see there are a lot of problems occurring at the border today. I hope, if there is one thing we can all agree on, it is that there is in fact a problem that needs to be solved at the border, whether you want to call it a crisis like President Obama did or whether you want to call it an emergency like President Trump.

Last week, the Secretary of Homeland Security sent a letter to Congress detailing the record number of apprehensions along the southern border. Secretary Nielsen noted that Border Patrol was apprehending between 50,000 and 60,000 a month late last year. Last month, it was 76,000, the highest in a decade. At the time of her letter, she said we were on track to interdict nearly 100,000 during the month of March—so almost essentially double from late last year until this coming month. Unsurprisingly, Customs and Border Protection personnel are not equipped to handle these record numbers.

Forty percent of the Border Patrol's manpower is spent processing migrants and providing care and transportation. These are, by and large, asylum seekers from Central America. In fact, while the Border Patrol, our primary law enforcement agency providing border security, should be securing the border, many of them are processing unaccompanied children or family units, handing out diapers and juice boxes instead of doing the job they are trained to perform. They have been taken off the patrol line to do this kind of work, leaving areas of the border

vulnerable to exploitation by the drug cartels. One way the cartels use this huge volume of humanity coming across the border is to distract the law enforcement agencies from doing their job interdicting the drugs that are poisoning tens of thousands of Americans. We know 70,000 Americans died of drug overdoses last year—about half of those from opioids, including synthetic fentanyl and heroin—90 percent of which comes from Mexico.

The amount of people coming across now is so overwhelming that the El Paso Border Patrol Sector has temporarily shut down its highway checkpoints in the interior so agents can help process these individuals. Most of our Members may not realize, we not only have Border Patrol working at the border but also in the interior at checkpoints on major highways because frequently what will happen is people are smuggled through or drugs are smuggled through, and they have to go through checkpoints for a double check, at which time a lot of drugs and a lot of illegal immigrants are discovered.

Additionally, detention facilities are at or over capacity. These are relatively small because they are built to house single adults for a short period of time. The record surge of children and family units combined with the impact it has had on processing time has put a serious strain on their resources. As a result, the Department of Homeland Security has been forced to release families and adults from custody.

I was on a radio program last week in San Antonio, my hometown. It was said Border Patrol is so overwhelmed, they are essentially just putting people on buses and shipping them into the interior of the State and the country, not even processing them.

I have heard from officials at DHS and throughout the ranks of the Border Patrol that in order to keep up with this pace, they need our help. They need more personnel so law enforcement agencies can respond to the crisis, secure the border, and keep our country safe, as well as adequately and efficiently processing individuals who illegally cross the border. We also need additional facilities to house illegal immigrants in custody so we don't engage in the failed catch-and-release policy, which is just another pull factor to encourage more people to come. If they know they are not going to be detained and they are going to be released, that is an incentive for them to come and join this wave of humanity coming across the border. We should be able to enforce the law and properly care for migrants in custody, but inadequate resources are limiting DHS's ability to do both.

Ours is a compassionate country. We are a nation of immigrants. Everybody—almost everybody came from somewhere else at some point in their family history, but the only way we are going to be able to maintain that compassion and generosity, when it comes to immigration, is by bringing some order out of chaos.

Many illegal immigrants know we are compassionate and generous, and they will take full advantage of the gaps in our border security and flaws in our immigration laws. The cartels—the criminal organizations that get rich moving people from Central America, across Mexico, into the United States—know for sure because they are exploiting those gaps and flaws in our immigration laws. It is not just the sheer numbers of people crossing the border that is concerning, it is the makeup of the people coming across.

We used to see primarily single adult males arriving from Mexico, and our current detention facilities reflect that, but now, because of the gaps and flaws in our immigration laws that are being exploited, people coming across are family units and unaccompanied children from Central American countries who almost uniformly claim asylum. That means they have to appear in front of an immigration judge at some point to have their claim assessed and adjudicated.

While there absolutely are legitimate families coming to our country for legitimate reasons, that is not the case for all the 36,000 family units apprehended last month alone.

Individuals crossing illegally know about the loopholes in our laws, as I said, and they know how to exploit them. For example, in 1997, the Flores settlement agreement determined that the Department of Homeland Security can only detain unaccompanied children for 20 days before releasing them to the Department of Health and Human Services, which in turn places them with sponsors—usually family members in the interior of the United States. Then they are given a notice to appear at an immigration hearing at some point in the future, but because of the backlog of cases, 98 percent of them don't show up. While this was unquestionably well-intentioned at the time, it has turned into a pull factor for illegal immigrants hoping to game the system, as well as the transnational criminal organizations that get rich engaging in this sort of trade.

In 2016, the Ninth Circuit Court of Appeals expanded the Flores agreement, effectively applying the settlement to family units and not just unaccompanied children. So now, rather than single adults arriving at the border alone, they are bringing children with them so they can pose as a family unit. They realize they can bring a child—any child—and pose as a family unit so they will be released within 20 days.

Sadly, Flores is not the only loophole being exploited. Another well-intentioned piece of legislation that is being abused is the Trafficking Victims Protection Reauthorization Act or TVPRA. This legislation limits our ability to return unaccompanied children from countries other than Mexico or Canada to their home country.

These loopholes are an attraction or pull factor and encourage parents to send their children on the dangerous journey to our southern border alone or sometimes with a single parent or sometimes with a smuggler or human trafficker posing as a parent.

This isn't a symbiotic relationship, where the smuggler gets an honest day's pay and the migrant gets a comfortable ride to the United States. These smugglers are called coyotes for a reason; they are predators.

Children are being kidnapped to serve as a free ticket into the United States. They are often abused or raped along the way, and many arrive at our border in terrible health. We simply cannot allow these practices to continue with no response by Congress. We need to close the loopholes that are being used to unlawfully enter and remain in the United States and provide much needed protection for these vulnerable children.

If a pipe burst and caused your kitchen to flood, you wouldn't start by cleaning up the mess; you would start by fixing the pipe first. If we want to have any sort of impact on the massive numbers of people crossing our border, which will only grow, we have to look not just at the problem but at the root cause.

I would urge all of our colleagues on the other side to stop viewing this through a purely political lens. This is not a question of Trump wins, you lose or Trump loses and you win. I am afraid that defines a lot of our politics in Washington today. That is a terrible mistake and a disservice to the people we represent, and it is an embarrassment to an institution which is supposed to be the world's greatest deliberative body.

We need to view this together as the humanitarian crisis it is—President Obama called it that—and view it as a problem that will only continue to grow without our intervention, which it has. We need to view it as an urgent issue that requires our cooperation and, yes, our compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

BUDGET PROPOSAL

Mr. LEAHY. Madam President, I have a couple of matters I want to discuss.

Today, the Senate Appropriations Subcommittee on Commerce, Justice, and Science is holding its annual hearing on the President's budget request, with the Department of Commerce, with representatives from the Department.

The representative from the Department that is invited, in my experience, has always been the Secretary—in this case, Wilbur Ross. This year, for as long as I can remember, with no public explanation, Secretary Ross declined the Subcommittee's invitation.

The Department of Commerce has a budget request for over $12.2 billion but couldn't send over its Secretary to defend it. It is extraordinary that the

Secretary provided no justification to the Republican chairman of the committee for his actions. It is extraordinary to me that this Secretary believes he should be treated differently from other Secretaries. He believes he may not be held accountable before the American people.

Secretary Ross's absence is especially concerning to me, given the last time he appeared before the subcommittee. He blatantly, objectively, irrefutably misled me about a critical issue facing the Commerce Department. Perhaps he knew he would be asked about what he said last time and would be asked to tell us what is the truth.

A year ago, I asked Secretary Ross why he had marketed the proposed addition of a controversial citizenship question to the census as being necessary to enforce the Voting Rights Act. To claim that question was needed to enforce the law when the administration had no interest in enforcing it was actually laughable at the time. So I asked Secretary Ross why he had such a sudden interest in adding the question when the Department of Justice had not brought a single suit under section 2 of the Voting Rights Act.

This was his response, and, remember, it is a crime to lie in your testimony before the Congress. He claimed the Justice Department is the one that made the request of the Commerce Department. He made similar claims before the House. He testified that Commerce was responding solely to the Department of Justice's request, and the Department of Justice made the request for the inclusion of the citizenship question.

Those are the claims Secretary Ross made, and all of those claims are false. This was proven as a result of emails obtained through a FOIA lawsuit. It was not something he was willing to bring forth, but they had to have a lawsuit to get the truth. We now know, Secretary Ross himself made the initial request to include the citizenship question. We know it was Secretary Ross who pressured the reluctant Justice Department to claim that such a question would be helpful to enforce the Voting Rights Act.

And now we know that the inclusion of this question, as many of us suspected from the beginning, was a nakedly political act, one that involves none other than Kris Kobach and Steve Bannon. The proof of all of this is in the emails. Just 1 year before I asked Secretary Ross about this issue, he wrote that he was ''mystified why nothing had been done in response to my months old request that we include the citizenship question.''

Well, I am mystified how Secretary Ross's testimony can be construed as anything other than blatantly misleading Congress. His testimony earned him four Pinocchios from the Washington Post.

Two courts have now declared that Secretary Ross's attempt to include the citizenship question was illegal. One of them found that ''in a startling number of ways, Secretary Ross's explanations for his decision were unsupported by, or even counter to, the evidence before the agency.'' That is a remarkable, but not surprising, declaration from the court.

So today I have a simple message for Secretary Ross: You are not an investment banker anymore. You serve the American people, and part of your job is being accountable to Congress and to the public. Trying to run from Congress will not solve your problems, and trying to hide from the truth will not either. The truth has a way of catching up with you. If you don't tell the truth, it eventually becomes obvious. Secretary Ross did not tell the truth.

S. RES. 50

Madam President, to say it is disappointing that the Senate is going to vote today in relation to the resolution to reduce postcloture debate on nominations is an understatement. This is actually a resolution in search of a problem. This is an erosion of the Senate's responsibility—in fact, our sworn constitutional duty—to advise and consent to the President's—any President's—nominations. It is a removal of one of the last guardrails for quality and bipartisanship in our nomination process. It is short sided. It is a partisan power grab, and it is motivated by the far right's desire to flood the Federal judiciary with young, ideological nominees, many of whom, as we have seen time and again in the Judiciary Committee, are simply unqualified to serve on our Nation's courts. We have seen nominees who have never been in a courtroom, and they are being nominated for lifetime judgeships.

Postcloture time is a critical tool for Senators, especially those who do not sit on the Judiciary Committee, to vet nominees for lifetime judgeships. In fact, last Congress, more than one nominee had to withdraw after scrutiny during this time led the Republicans withdrawing their support. We actually took the time to ask questions—an extra 20 minutes of questions, or an extra hour of questions. For somebody who is up for a lifetime appointment, I think that is what the American public pay us to do.

Unfortunately, for the Republican leadership the nominations process in the Senate is about quantity not quality. Let me give you an example. In the past 2 years, Republicans have disregarded the important role of the ABA. They denied them the time they needed to evaluate judicial nominees, or when they have evaluated them and they have come back saying they are unqualified, they have ignored that.

Republicans routinely stacked hearing panels with multiple circuit court nominees over Democrats' objections—something Democrats never did to Republicans. Republicans have even held several hearings over recess despite our objections. That is certainly something I would never do when I was chairman if any Republican asked me not to.

Upon the White House's changing hands from a Democrat to a Republican, the Republicans abruptly changed the policy of the blue slips. There has been a long-held tradition of honoring blue slips from home State Senators on circuit court nominees. When I was chairman of the Judiciary Committee, I respected the input of all home State Senators, no matter whether we had a Democrat or Republican in the White House and no matter whether the Senator was a Republican or a Democrat. Republicans only seem to insist on honoring blue slips when a Democrat is in the White House.

When I was chairman with a Democratic President, every single Republican wrote a letter saying the blue slip was so sacred, and every single one of them wanted it to be upheld. It had to be upheld. Whoops, a Republican comes into the White House, and we don't need it any more. Look no further than the Judiciary Committee's markup this week, where they ignored the opposition of two home State Senators who are also members of the committee, including the Ranking Member, and will advance two circuit nominees for whom blue slips were not returned.

When Democrats were in charge, no Republican would condone that and no Democrat would make them have to face that. Yet they have turned it into a partisan rubberstamp. We are not being the conscience of the Nation.

Opponents to this resolution can say it is necessary to do this because of the slow pace with which President Trump's judicial nominations are being confirmed. Let's quickly review that. In his first 2 years, President Trump had more judicial nominations confirmed than President Obama did in his first 4 years. In just 2 years, we almost doubled the number of circuit court nominations confirmed compared to President Obama's first 4 years. In fact, President Trump had more circuit nominees confirmed in his first 2 years than President Obama, President George W. Bush, President Clinton, or President George H. W. Bush.

So I don't need lectures from Senators in this Chamber about the importance of judicial nominations or the methods by which Members could frustrate the confirmation process. I lived it. I have seen it. I have served here longer than any other Member of this body.

Regardless of whether it was a Republican President or a Democratic one, I respected the role of home State Senators, the role of the Senate as a whole, and our roles as individual Senators to evaluate the nomination before us.

In 2013, in a bipartisan vote, the Senate agreed to a resolution to reduce postcloture debate that was supposed to be good for the life of the 113th Congress, not the permanent rule change proposed by S. Res. 50. Let's remember

the facts, not just some of them. All the other guardrails of the nomination process were intact at the time. Nominations were thoroughly vetted by both the administration and the committees here in the Senate. Nominees were still subject to a 60-vote threshold for judicial nomination, including circuit nominees. Cloture was never filed on a day in which a nomination was reported on the floor. For judicial nominations, hearings were not continually stacked with multiple circuit court nominees, something both Republicans and Democrats agreed on. The prerogative of home State Senators and their in-State judicial selection committees—most of which are bipartisan—were respected both before and after the resolution.

I understand the Republican majority now wants to cry foul and accuse Democrats of needlessly holding up our confirmation process. I wish people had been here more than 2 years. I look back at the glacial pace with which Republicans allowed us to process judicial nominations for the first 6 years of the Obama administration.

From the very beginning, in 2009, Republicans inexplicably withheld their consent to consider President Obama's very first circuit nominee and one that was supported by his Republican home State Senator, the highly respected Richard Lugar.

I always look back at the shameful treatment of Merrick Garland to fill a critical vacancy on the Supreme Court. Never in the history of this country have we refused to allow a Supreme Court nominee to at least have a hearing and a vote until Merrick Garland. That was a political power grab that undermined the legitimacy of the Senate and the courts. This claim was made: We don't vote on Supreme Court nominees in an election year.

Well, of course we do. I remember almost all of us Republicans and Democrats voting on a nominee that President Ronald Reagan made in an election year when he was going to be leaving the Presidency. Looking back might provide a glimpse of history, but it will do little to restore the comity that was a hallmark of the Senate when I first came here—a hallmark which made the Senate seem like the conscience of the Nation, not a partisan political stamp.

Looking forward, this resolution will do little to restore the comity and will further polarize the Senate, which is supposed to be the world's greatest deliberative body. It will only further contribute to the politicization of our courts. The Federal courts are perceived throughout the world as above politics and are now being seen, more and more, as a political rubberstamp for President Trump.

When the Senate Rules Committee held a hearing to evaluate the proposal back in 2017, I remarked that the word ''obstruction'' had become a term thrown about in the Senate whenever unanimous consent was not provided. ''Duty,'' unfortunately, is a word we hear too little in this body.

Vermonters, time and again, give me their trust not only to represent Vermont values here in Washington but to protect the centuries-old institutions that have sustained our democracy and that made us the longest existing democracy currently in the world. The Senate is part of why that democracy still exists. The Senate should reject this resolution. We cannot abandon the traditions that made the Senate, at its very best, the conscience of the Nation in exchange for short-term political gain and going from the conscience of the Nation to a partisan rubberstamp. That is not the Senate that I admire. It is not the Senate that has been led by some of the best Republicans and Democrats I have known over my decades here. It is not the Senate we want to see in the history books.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SCOTT of Florida). The Democratic leader is recognized.

H.R. 268

Mr. SCHUMER. Mr. President, the Senate failed to pass emergency relief funding yesterday to help the American families recovering from natural disasters. It failed for one reason—the Republicans removed critical aid for Puerto Rico and other territories from the House bill after President Trump told them to do it. Under this administration and with Leader MCCONNELL's blessing, even disaster relief has now become political.

I don't need to litigate why we are here. Over the last 2 years, the American people have endured staggering natural disasters that have devastated communities across the country. These Americans need help. They need help now. I would parenthetically add, if there were ever evidence of global warming or of climate change, this would be it despite the fact that just about every Republican has his head or her head in the sand and will not admit it.

Regardless of what you think the causes were, Americans have always stood together when American citizens have been hit by disaster. We band together and say we are going to help one another—all American citizens, all. Yet one part of America is not being treated like the others, and why not? It is because President Trump, for reasons that defy decency, harbors an apparent contempt for the people of Puerto Rico. He tweeted again last night and erroneously claimed that $91 billion has been afforded the people of Puerto Rico. He ridiculed the leadership that has desperately tried to rebuild the island in the wake of these megastorms.

Let's get the facts straight.

The Republicans know the storms that hit Puerto Rico over a year ago were not ordinary storms; they know these were historic catastrophes. We are talking about the deadliest disasters to hit American soil in over a century. We are talking about the worst power outage in American history. We are talking about 3,000 lives lost. Yet here we are, 18 months later, and the island hasn't recovered.

It is surreal that a disaster so awful has been met with a Presidential response that is so tepid and so heartless. It is surreal that our Republican colleagues go along with this and say we are not going to help Puerto Rico in the way that is needed. Billions in funding for recovery and mitigation efforts right now remain locked in the Treasury. Congress already appropriated $20 billion that the administration has not allocated. All we want to do is make sure the money is allocated. That is one of the things we want to do.

Are our Republican colleagues opposed to that? That is what it sounds like. Some of them say it is political. What is political is President Trump's saying no aid for Puerto Rico and having the Republicans jump in line, even those with many Puerto Ricans in their States. Make no mistake, we have reached this impasse because the President has said himself he opposes help for Puerto Rico, and the Republicans follow along.

Some of my colleagues from the other side came up with another shibboleth; that we opposed the House bill because it didn't provide funding for the Midwest. First of all, the House bill was aimed at disasters in 2018, not in 2019. Second, Senator LEAHY offered an amendment that would have added funding for the Middle West and funding for Puerto Rico. What did the Republicans do? They blocked it anyway. So this undoes their fantasy that the Democrats are opposed to aid for the Middle West. Senator LEAHY and I will be offering an amendment that will give aid to the Midwest and to Puerto Rico. Let's see where our Republican colleagues stand. Will they block that too?

Yesterday's vote boiled down to a simple question: Do the Republicans believe the people of Puerto Rico deserve relief for their natural disasters as do all Americans? Do they believe the families of Puerto Rico—whatever you think of this elected official in Puerto Rico—deserve to be helped just like the families of the Midwest and California?

Do they believe the statement of the Governor of Puerto Rico, Rossello, that the House bill is much preferable to Puerto Rico than what the Senate has proposed or do they make their own judgment based on what President Trump said and then call it political?

What a shame.

Let me be clear as day: Without objection, the Democrats support funding for all regions of the United States that have been affected by natural disasters, which is any State or territory that needs to rebuild. That list should include the Middle West, and it should

include Puerto Rico because our fellow citizens on that island have yet to recover from the deadliest of storms in our recent history.

I will let this Chamber know that Senator LEAHY and I will be offering a new amendment to the disaster bill in order to provide billions of new additional dollars for the Midwest's 2019 disasters.

The Senate Republicans say they care about Iowa and Nebraska, but they didn't put an additional penny in for that aid. They said to let them compete with the 2018 disasters and the same amount of money. We are going a step further. We are going to say we need additional aid for the Middle West—for Iowa and Nebraska—as well as aid for Puerto Rico. It is not an either-or.

If we get into an either-or, the next time, it will be your State, my Republican colleagues, when people will not want to vote for aid or it will be for mine or another's. I experienced it, incidentally, with Sandy, when a lot of Republicans didn't want to vote for aid after Sandy because it was for New York. That was so wrong.

So I say to all who are suggesting that the Democrats aren't willing to help the people of Iowa and Nebraska and other States that we are calling their bluff.

Are you ready to actually appropriate new money—more money—for what the people in the Midwest who are struggling need? The Democrats are. Let's see where you stand.

HEALTHCARE

Mr. President, on healthcare, the Republicans have failed to advance any of their healthcare plans through Congress, so they are trying to repeal healthcare through the courts. This reeks of desperation, for they do not have a backup plan.

Last night, the President tweeted that the Republicans will come up with their plan in 2021. Translation: The Republicans have no healthcare plan. Translation: President Trump has no healthcare plan. It is the same old song the Republicans and the President have been singing. They are for repeal, but they have no replacement. President Trump confirmed he will hold Americans hostage through the 2020 election when it comes to healthcare. He promises with ''re-elect me, and maybe you can take a peek at my backup plan after that,'' which he doesn't have. What a ruse. What a shame. What a disgrace.

People are suffering. When their children have cancer, people need protection so the insurance companies will not pull away the healthcare. Seniors need protection from the rising costs of prescription drugs. Women need protection so they will not be treated differently than men when they have healthcare needs that are particular to women. Young people need protection to be allowed to continue to stay on their parents' plans until they are 26 if they start new lives after high school or college. All of these folks need protection.

President Trump and our Republican friends say: Rip all of those things away, and trust us. Maybe in 2021, we will have a plan.

With a stubbornness that would impress a mule, President Trump has waged a manic war on the American healthcare system that shows no sign of stopping. Now we are asked to believe that President Trump has a wonderful but secret healthcare plan but will, for some reason, not reveal it until the next election. What a transparent ruse.

Snake oil salesmen, take notes.

Here is why we can't believe the President's punt and promise.

In May 2017, after the Republicans voted to repeal the healthcare law, on national television, the President celebrated in the Rose Garden with House Republicans. He celebrated the passage of a bill that would result in 23 million fewer people having health insurance and would result in gutting the protections for Americans who have preexisting conditions. He celebrated his own broken promise to never cut Medicaid and to always protect people with preexisting conditions, and he did it on national TV. So don't tell me this time will be different. Don't tell me there is a secret plan, when we know what the Republicans' healthcare plan will be—increased premiums, a loss of coverage, and the elimination of protection for preexisting conditions. The markets will be stabilized, but families will be tossed into an abyss of inferior care.

President Trump's lawsuit seeks to wholly undo the progress we have made, but he wants the American people to just wait for a magic plan to appear 2 years from now?

If successful, the President's lawsuit will mean skyrocketing costs for families. The President wants the American people to just wait and see.

President Trump's lawsuit will mean massive increases in prescription drug spending for seniors who are on Medicare. The President wants the American people to just wait and see.

President Trump's lawsuit will mean women will be charged more because they are women. The President wants the American people to just wait and see.

So, when President Trump insists he has a silver bullet plan that we will only be able to see if the American people reelect him, we know what a sham that is. For a President who has perpetrated lots of shams, this one takes the cake.

I am asking: Which one of our Republican colleagues will stand up for healthcare for the American people?

Senator SHAHEEN has a resolution that simply reads to the Justice Department: Withdraw your suit that would do all of these awful things.

How many of our Republican colleagues will go on that proposal? Let's see. Are they going to say it is politics too? With regard to the healthcare of millions of Americans, any time the President does something horrible and the Democrats resist, are they going to say it is politics? Oh, no. That is what we are supposed to do whether it comes to Puerto Rico or whether it comes to healthcare.

CHINA

Mr. President, I have one final word on China.

The New York Times reported yesterday that a trade agreement with the United States and China is nearly 90 percent complete, with a deal being potentially finalized later this month. Yet it alarms me that the President, for all his bluster, will likely settle on a deal that will be devoid of any meaningful reform to China's economy and trade practices. Instead, he will settle for the purchases of American goods by the Chinese state. This move will only strengthen China's leverage while it will do little to help us long term.

We want to protect our farmers, but we don't want a soybean sellout where, in exchange for soybeans, we trade away America's family jewels—our intellectual property, our industrial know-how, our hard-working labor force being able to compete in a reciprocal way in China the way China can compete here. If it is just the purchases of product, the Chinese Government can always turn off the tap. So we are entering treacherous territory.

I have a simple message for President Trump and praise him for standing up to China more than President Bush or President Obama did on this issue. I say to him: We have made progress in making China see it has abusive practices. Stand firm. Don't back out. I cannot think of a worse end for us than to say ''uncle'' at the last minute. Skip the political photo op and make good on your promise to stand up for American business and workers when China takes advantage.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. I ask unanimous consent that the order for the quorum call be rescinded.

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

S. RES. 50

Mr. THUNE. Mr. President, sometimes attempting to block a Presidential nominee is justified. If a President nominates a candidate who clearly is unfit for the office for which he or she has been nominated, then, as Senators, we should try to stop the confirmation of that nominee. But that is the exception. The Senate's advice and consent power is not supposed to be used to slow-walk all of a President's nominees simply because one party doesn't like the President who is doing the nominating.

In the past, once Presidential nominees had been vetted and approved by the appropriate committee, their confirmation was pretty painless. Cloture

votes designed to end filibusters of candidates and allow their nominations to come to a vote were rare because Senators only tried to block nominees in extreme cases. But that is no longer the case. Since President Trump took office, Democrats in the Senate have engaged in a systematic campaign of obstruction, pointlessly delaying qualified nominees for no reason other than the fact that Democrats dislike this President.

But wait, you say. Not so fast. Maybe Democrats obstructed all of these nominees because they didn't believe any of them were qualified for the positions for which they had been nominated—except we all know that is not the case because again and again Democrats have delayed and obstructed nominees they have ultimately supported.

One egregious example occurred in January of 2018, when Democrats forced the Senate to spend more than an entire week considering four district court judges even though not one single Democrat voted against their confirmation. That is right—Democrats forced the Senate to spend more than a week of our floor time considering the nomination of four judges even though not one single Democrat opposed their confirmation. These judges could have been confirmed in a matter of minutes by voice vote, but Democrats forced the Senate to spend more than a week on their consideration—time that could have been spent on genuinely controversial nominees or on some of the many important issues facing our country.

Another ugly example occurred during my chairmanship of the Commerce Committee last Congress, when Democrats pointlessly delayed the confirmation of the Under Secretary of Transportation for Policy, Derek Kan. Mr. Kan, who had been confirmed by voice vote just 2 years earlier as a member of the Amtrak board of directors, was delayed for months in 2017, with Democrats ultimately requiring the filing of cloture—but not because Democrats had any problem with his qualifications. When the vote on his nomination finally came, he was confirmed by an overwhelming margin of 90 to 7. Once again, Democrats obstructed for obstruction's sake.

During President Obama's first 2 years in office, his nominees were subjected to a total of 12 cloture votes. Do you want to know how many cloture votes President Trump's nominees faced during the President's first 2 years in office? One hundred and twenty-eight—more than 10 times as many cloture votes as President Obama's nominees faced over the same period—128 to 12.

Democrats' slow-walking of nominees is obviously a problem for this President and his administration. Essential positions have stayed vacant for months longer than they should have, making it more challenging for the administration to carry out its responsibilities. But Democrats' actions are not just a problem for this administration; they are setting a terrible precedent that could derail the work of the Senate and inhibit the President's ability to govern for many years into the future. Just imagine if Democrats' behavior over the past 2 years becomes the norm. Presidents could be waiting years to adequately staff their administrations, and the Senate would be perpetually tied up on unnecessary cloture votes, leaving less and less time to actually do the business of governing.

Democrats and Republicans need to curb this rampant obstruction before it becomes a permanent precedent here in the Senate. Later today, we will have a chance to do so when we vote on the Blunt-Lankford resolution.

Back at the beginning of President Obama's second term, Democrats and a number of Republicans, including me, passed a measure streamlining the confirmation process for lower level positions, such as district court judges and Assistant Secretaries. This was obviously something that benefited President Obama and only President Obama since the rules change expired at the end of that Congress, but Republicans signed on because we believe that Presidents should be able to staff their administrations in a timely fashion. So we worked with Democrats to streamline consideration of lower level administration nominees.

The Blunt-Lankford resolution is very similar to the rules change we passed in 2013. Like the 113th Congress rules change, the Blunt-Lankford resolution would streamline the process for consideration of lower level nominees, while preserving the current rules for high-level nominee positions, such as Cabinet officials and Justices.

Thirty-four currently serving Democratic Senators also served in the 113th Congress and voted for that rules change, and I am hearing that Democrats would be willing to support the Blunt-Lankford resolution as well. But there is one catch: Democrats apparently would only support the rules change if we delay the effective date of the resolution to 2021—in the hopes that they will have a Democrat in the White House by then.

That is an outrageous demand, this ''We will take the rules change when it helps us, but we will do everything we can to make sure the other party doesn't get its share of the benefits, but that ''The rules don't apply to us'' attitude has unfortunately become pretty typical of the Democratic Party lately. Think about recent Democratic support for packing the Supreme Court. Why has that long-dead idea come back to haunt us? Because Democrats are angry that President Trump has gotten two individuals confirmed to the Supreme Court. Apparently, the only good Supreme Court Justices are the Justices nominated by Democrats. Take the Democratic proposal to abolish the electoral college. Democrats are still mad about their loss in the 2016 Presidential election. We get that. Their solution is not working harder to win in 2020 but changing the rules to favor their party.

Simple intellectual honesty would dictate that the 34 current Democratic Senators who voted for the rules change in the 113th Congress vote for the rules change today. I hope they will. Nothing less than the future of the Senate is at stake here.

Democrats have a choice to make: They can vote to restore the Senate's tradition of efficiently confirming noncontroversial nominees so the work of the government can get done, or they can continue to pursue a damaging, virulent partisanship that will negativity affect the Senate's ability to function for decades to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, over the past 2 years, some in this body have decided that they will oppose any nominee suggested by President Trump. There isn't a Senator who serves their State's interest when qualified, noncontroversial nominees are prevented from being confirmed; however, some Members continue to do just that by slow-walking the President's nominees for partisan purposes.

This concern about the speed of confirming nominees is not anything new. For the benefit of those who were not here at the time, I would like to take this opportunity to review some of the history on this subject and how we got where we are today with all this stalling.

Since the rejection of the Robert Bork nomination for the Supreme Court in 1987, Republicans have felt like we are living under two sets of rules. Republican Supreme Court nominees could be rejected by Democrats on ideological grounds if they didn't pass their litmus test, but Republicans continued to vote to confirm otherwise qualified Democrat nominees who had what we might consider very radical views about interpreting the Constitution to mean things that the Constitution plainly does not say.

Then all of a sudden in 2003, to contrast with what the practice had been from 1789, Democrats entered the Senate as a minority party under a Republican President. Prior to 2003, there was simply no history of systematically opposing cloture to prevent judicial nominees from ever getting a final vote.

However, coaxed on by leftwing activists, Senate Democrats embarked in 2003 on an unprecedented campaign of obstruction by filibustering several of President Bush's judicial nominees to keep them from being confirmed.

When Senate Democrats began to use the cloture rule to block George W. Bush's circuit court nominees, we made it very clear that we Republicans were done living by two sets of rules. We warned Democrats that, if they continued down that path, we would

follow their precedent when the tables were turned, but the Democrat obstruction continued anyway.

Not long after—and as they often so do in this Chamber—the tables were turned. President Obama entered office with a Democrat majority in the Senate. True to Republican promises to not live by two sets of rules, we began to follow the precedent established by the Democrats and blocked a proportional number of President Obama's judicial nominees.

Despite the fact that Republicans were holding Democrats to the same standard that the Democrats established, Senate Democrats made a big show of being outraged at that time and being indignant about this equal treatment. Senate Democrats began threatening to invoke the nuclear option to ram through President Obama's nominees on a simple majority vote.

However, the minority and majority parties reached an agreement—yes, we actually reached an agreement—and this was at the beginning of the 113th Congress where Senate Republicans agreed to institute a temporary standing order to limit postcloture debate for sub-Cabinet and U.S. district court nominees. This agreement was made explicitly as a bipartisan compromise, and that bipartisan compromise was there to avert the use of what we call a nuclear option. Then-Majority Leader Harry Reid stated on January 24, 2013:

I know that there is a strong interest in rules changes among many of my caucus. In fact, I would support many of these changes through regular order. But I agree that the proper way to change Senate rules is through the procedures established in those rules, and I will oppose any effort in this Congress or the next to change the Senate rules other than through regular order.

That is the end of Senator Reid's, who was then majority leader, quote.

Despite this statement by Senator Reid and despite the bipartisan agreement, the Democrat leader decided to pursue the nuclear option just a few months later. At the same time, Senate Democrats thought that Secretary Clinton would be President and that forcing this rules change would benefit their agenda for the foreseeable future.

Our side saw this for what it really was, a power grab that sought to steamroll the minority party. At that time, the minority party was my party.

Before Senator Reid invoked the nuclear option, we actually urged the Democrats to take a longer view. We were trying to get them to think in terms of what can happen in the future if you do something now. So we again warned that we were not about to play by two sets of rules and that they, the Democrats, would regret their decision when the tables were turned.

I was on the Senate floor on the day that Majority Leader Reid broke the rules to change the rules—let me emphasize it—broke the Senate rules to change the rules and made the following comment. This is this Senator speaking in 2013:

If there is one thing that will always be true, it is this: Majorities are fickle. Majorities are fleeting. Here today; gone tomorrow. So the majority has chosen to take us down this path. The silver lining is that there will come a day when the roles are reversed.

When that happens, our side will likely nominate and confirm lower court judges and Supreme Court nominees with 51 votes, regardless of whether the Democrats actually buy into this fanciful notion that they can demolish the filibuster on lower court nominees and still preserve it for Supreme Court nominees.

That is the end of my quote from about 6 years ago when Senator Reid was doing the nuclear option.

It so happens that very day did come, and the American people elected President Trump with a Republican majority in the Senate and the House in November 2016. Senate Democrats have since engaged in a unprecedented campaign to prevent a whole range of government positions from being filled by President Trump. It used to be understood that it was in the American people's interest to have a functioning government, even if your candidate didn't win the Presidency.

The norm around here for hundreds of years used to be that a new President's Cabinet positions were filled as soon as possible. I know that the 2016 election aroused strong feelings and that many people were deeply disappointed when the candidate they expected to win did not win to the point of not being able to accept the outcome under our Constitution of who was elected and elected constitutionally.

A similar attitude arose when President Obama was elected with some people latching on to the birther conspiracy theory that President Obama was secretly born in Kenya and that this somehow made his Presidency illegitimate. However, this was always a fringe movement that Republicans in Congress did not take seriously and many refuted it.

The arms race of partisan grievance has now escalated where U.S. Senators pander to the ''resistance'' by preventing President Trump from filling out his administration more than halfway through the first term.

Senate Democrats insist on going through the lengthy motion to end debate even for nominees which there is little or no opposition. This means that, after being vetted by the White House, vetted by the Office of Government Ethics, answering a detailed questionnaire probing every aspect of the nominee's life, meeting with Senators in person, going through a nomination hearing, and being voted out of committee, nominees must wait and wait—sometimes for months and years—before there is time in the Senate schedule to file a cloture motion as the first step to getting to finish approving or disapproving that nominee.

The Senate must then allow for a intervening day to pass before it can vote to end the debate, which often passes overwhelmingly. Yes. You filibuster something. You have to file a motion, and yet a lot of times, there is no disagreement that that nominee should be approved. After all that, the cloture rule allows for an additional 30 hours of postcloture debate.

I strongly support the Senate exercising its constitutional power, and that power is about advice and consent. If there are any concerns about any nominee's ability or willingness to do his job and whether that nominee is willing to follow the law, Members should come to the floor to hash through the merits of the nominee.

However, Members on the other side of the aisle have obstructed the confirmation of a large number of actually noncontroversial sub-Cabinet nominees and even lower court judges who were not controversial. In a great many cases, the demand for a cloture vote appears to be solely about delaying and about obstructing, not anything about the specific nominee or his qualifications.

As chairman of the Committee on Finance this session, I want to highlight the experience of some of the nominees considered by the Finance Committee. So far this Congress, the Finance Committee has reported seven nominees that were originally reported last Congress but were not confirmed last Congress because of the obstruction.

I want to make clear that the Finance Committee has a very thorough as well as bipartisan vetting process. Any nominee that has been reported by the Finance Committee can verify that we do not rubberstamp nominees.

However, with the exception of one of the seven nominees that were rereported, all of them have been reported unanimously or with a maximum of two no votes. Only one of those seven, however, has been confirmed.

The U.S. Tax Court is a place where taxpayers are able to challenge an assessment of tax before actually paying the amount that they are challenging. It is important that we keep the full roster of 19 Tax Court judges as full as possible. I don't think any member of my committee or this Senate would disagree with what I just said. I also am not aware of any criticism of the nominee currently on the Executive Calendar for the Tax Court.

That nominee has been reported unanimously from the Finance Committee twice now, last Congress and this Congress; yet there is no certainty about when that nominee will be able to consider—or when the Senate will be able to consider that nomination.

This is very unfair to nominees who submit to an extensive vetting process and put their professional lives on hold so that they can serve. And it is also unfair to the American taxpayer who needs these people to be working.

It is also unfair to the American taxpayers who need these people to be working. After all, government is a service.

In 2013, the liberal Brennan Center for Justice issued dire warnings about

a judicial vacancy crisis. At that time, there were 65 unfilled seats on the U.S. district courts, and this was crippling the ability of those courts to dispense justice and to protect the rights of the American people. Senate Democrats picked up on these talking points and forcefully made their case.

There are now 129 vacancies on the district courts—129. The concern from Democrats has somehow disappeared. Last Congress, I was chairman of the Senate Judiciary Committee. By the end of last year, I had moved more than 30 highly qualified district court judges to the floor. Most of them had languished there for months. A few had been in the confirmation process since 2017. This is all because Democrats insist on 30 hours of debate for every nominee even though they often end up voting for them. Some of these who had been filibustered were passed almost unanimously by the Senate.

In the Judiciary Committee, when I was chairman, we had several more judges ready to be reported out of committee, but they were likely to face similar obstruction. I haven't been Judiciary chairman for 3 months. We are in a new Congress, and I assumed a different chairmanship. Do you know how many of those district court nominees have been confirmed in the new Congress, meaning the same ones we had voted out last Congress? Zero. The vacancy crisis, by the Brennan Center's definition, has nearly doubled because of this obstruction.

Clearly, it is a waste of this body's time to use all 30 hours of debate after the cloture vote for almost every nominee who comes before the Senate. The Senate was intended to be a deliberative body. If Senators want to engage in debate on a nominee, then by all means have that debate; however, don't make the Senate go through the motions if you have no intention of actually engaging in debate.

There is now before the Senate a proposal to limit postcloture debate on sub-Cabinet-level nominees. This proposal was very similar to one that passed the 113th Congress with overwhelming bipartisan support. A number of Senators from the other side of the aisle supported that measure at that time. If they can't support it this time around, what is their justification? Again, we cannot have a different set of rules depending on which party is in the majority. We need to agree on a common set of rules and a common set of norms that apply regardless of which party has the White House and/or the majority in the Senate.

I note that there are quite a number of Senators who see themselves in the White House in 2020. They are coming to Iowa every week. Do they really want to live under the precedent they are setting now? If a Senator who votes against virtually every Trump nominee gets into the White House, how should this Senator proceed? If one of the current Senate Democrats running for President gets elected in 2020, I, of course, will be disappointed, and I surely won't agree with most of their policies. So then should I vote against all of their nominees?

I would ask each of these Presidential candidates: Do you expect this Senate to behave differently than you are right now if in the future the shoe is on the other foot?

I don't want to be part of a resistance against a future Democratic President. I don't want to live by two sets of rules. The solution is to end now this partisan total war where the other side must be stopped at all costs. We need to come to a bipartisan agreement to end this tit-for-tat, cut-off-our-nose-to-spite-the-face environment. That is the environment we find ourselves in today.

Senator LANKFORD's resolution builds on the bipartisan agreement from 2013, but it is not perfect. If Democrats have legitimate concerns, let's work together on something better.

I have heard that the only change the Democratic leadership has proposed is to delay the effective date of the standing order until the start of the next Presidential term. Presumably, that is due to the same hubris that led them to invoke the nuclear option without imagining that they would soon regret it, as now they do regret it. We had two Supreme Court nominees to prove that they regret it. We actually approved those two Supreme Court nominees. It is impossible to defend their position on principle.

Surely there are some Members on the other side of the aisle willing to work in good faith with Republicans to resolve this impasse in a way that takes into account the legitimate concerns of Senators on both sides of the aisle. I don't believe it is too late to bring the Senate back to the deliberative body the Framers of the Constitution intended the Senate to be. It is in all of our interests to have a more functional Senate. I hope my colleagues will join me in working toward that goal.

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.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

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

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

Ms. HIRONO. Mr. President, most Americans don't wake up every day thinking about the arcane rules of the Senate. They might think the debate we are having today is just another example of a legislative body they see as out of touch on the issues they care about most, issues on which a large majority of Americans agree action should be taken.

For example, the Republican Senate hasn't done anything about the epidemic of gun violence. The Republican Senate hasn't taken action to expand access to affordable, quality, universal healthcare. Instead, Republicans have tried to take healthcare away from millions of people. The Republican Senate hasn't passed comprehensive immigration reform, let alone offered the blameless Dreamers a path to citizenship and a life in the only country they know. The Republican Senate hasn't taken decisive action to combat climate change. The Republican Senate hasn't taken steps to empower our middle class. Instead, it passed a huge tax cut for the wealthiest Americans and corporations.

We should be having a real debate about all the issues I just mentioned. Instead, Republican leadership is proposing a resolution to, among other things, change Senate rules to reduce the number of hours of postcloture debate time from 30 hours to 2 hours for district court nominees.

Let me just mention, by the way, that there is a world of difference in requiring 51 votes to put people on the district and circuit courts versus what the Senate majority leader did in changing the vote requirements for people on the U.S. Supreme Court, changing that to a bare majority—a huge difference in putting in a 9-member Supreme Court with a bare majority of votes versus some 800 circuit and district court judges. If we can't see that difference, I have no words for that. We should see that difference.

Getting back to what is before us today, the significant rule change will help Donald Trump and his Republican enablers in the Senate to more swiftly pack our district courts with ideologically driven judges—judges who will make biased rulings in line with their personal ideological beliefs and not based on the law or the Constitution.

Our district court judges, appointed by Democratic and Republican Presidents alike, have been at the frontline of resisting Donald Trump's abuses of power. They have, for example, ordered the government to reunite parents with the children ripped from their arms at the border. They have rejected attempts to deny Federal funds to cities refusing to be drawn into the Trump administration's war on immigrants. They stopped Executive orders aimed at kneecapping public sector unions. They blocked the implementation of an ugly ban on transgender Americans serving in our military. They stopped the Commerce Department from putting a citizenship question in the census. They ruled that public officials cannot block citizens from their Twitter feeds. They stopped the government from banning Muslims from entering the United States. They stopped a decision that would have allowed States to require Medicaid recipients to work in order to receive benefits.

These exercises of judicial independence by our district judges are precisely why Donald Trump and his congressional enablers want to make it

easier to pack our courts with nominees handpicked by the far-right Federalist Society and Heritage Foundation. These organizations have spent decades and millions of dollars opposing universal healthcare, strengthening corporate interests, and undermining voting. They have also spent decades and millions putting their kinds of judges on the courts, with their lifetime positions.

If we aren't able to take as much time to examine their records and publicize their lack of fitness, Trump's nominees will soon occupy more and more of the lifetime appointments on the bench. Once they do, they will not only be more inclined to side with his extreme view of Executive power, they will also start ruling in cases consistent with the ideologies they bring to their jobs—for example, that abortion should be illegal; that Americans don't have a right to healthcare; that voter suppression is OK; that families with same-sex parents should be discriminated against; that transgender teenagers should be forced to be someone they are not; that Presidents can ban people from our country based on their faith; that one person's religious beliefs can trample the civil rights of everyone else. Trump's nominees have extensive records of their positions on these kinds of issues.

It used to be that appointees to the Federal district courts generally did not generate a lot of controversy. They were typically experienced trial lawyers or prosecutors with solid reputations in their hometowns, but they weren't typically activists or ideologues. There was a time when they were mostly White and mostly male, but starting in the Carter administration and building steam through the Clinton and Obama administrations, district court nominees presented to the Senate were increasingly diverse, with an emphasis on qualifications, not ideology. But Donald Trump's judicial nominees are, once again, mostly White and mostly male. They are now much more ideological and agenda-driven. He has also nominated a disproportionate number of lawyers who do what is called impact litigation, where they pursue cases to make political points and undo legislative decisions.

Some examples of Trump's dangerous circuit court nominees include Patrick Wyrick, who was solicitor general of Oklahoma and who, together with his close ally, then-Oklahoma attorney general Scott Pruitt, tried to dismantle Obama-era protections of clean air, clean water, and public land.

He was counsel of record on an amicus brief in Sebelius v. Hobby Lobby, challenging the Affordable Care Act's contraceptive coverage requirement.

He also submitted a brief in Humble v. Planned Parenthood of Arizona, challenging medication-induced abortion procedures commonly used by Planned Parenthood.

As deputy general counsel for the First Liberty Institute, Matthew Kacsmaryk filed briefs opposing same-sex marriage, supported a Virginia school board's anti-transgender bathroom policy, and opposed the right of all women to have their healthcare coverage include contraceptives.

Michael Truncale, another example, was a former congressional candidate and an ideological activist against voting rights, abortion, and immigration, who gave public speeches using the widely debunked myth of in-person voter fraud to justify Texas's draconian voter ID laws.

Another example is Wendy Vitter, who promoted fraudulent claims about abortion, birth control, and women's health at an appearance she initially failed to disclose to the committee. These fraudulent claims included the position that there is a connection between using birth control and getting cancer. She has been a public advocate for extreme restrictions on reproductive rights.

As deputy solicitor general in the Office of the Texas Attorney General, J. Campbell Barker represented Texas and Whole Women's Health v. Hellerstedt, urging the Supreme Court to uphold Texas's restrictive anti-abortion statute. The Supreme Court declined to do that, thankfully. He also supported Donald Trump's Muslim ban, advocated for the invalidation of DACA and DAPA, supported restrictive voter ID laws, opposed the right of all women to have their healthcare coverage include contraceptives, and I could go on and on.

These nominees have deeply held personal, ideological views who want to be judges for life to make these views into law.

During their confirmation hearings, these nominees told us, to a person, he or she would ''follow the law'' and ''follow precedent,'' but do they really expect us to believe they can set aside their careers of ideological activism? I don't think so. They were nominated precisely because they are advocates for an ideologically conservative agenda—just the kind of nominees who would get the stamp of approval from the Federalist Society and Heritage Foundation. That is why my Republican colleagues support them, and that is why they want to pass this resolution—to pack the courts with these types of judges even faster.

Many Americans are awakening to the fact that court-packing is a clear and present danger to a woman's right to choose, voting rights, healthcare access, environmental protections, civil rights, and individual rights. Not content with the court-packing damage they have already done, Republicans are using this resolution for court-packing to happen even faster.

I cannot support this resolution.

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.

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

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

Ms. KLOBUCHAR. Mr. President, today I rise to discuss the importance of upholding the Senate's constitutional obligation to provide advice and consent on nominations.

Many people refer to the Senate as the world's greatest deliberative body because the Senate is designed for the careful consideration and debate of proposed laws and nominations. That is why we have so many people sitting up in the Gallery today, because they are here to hear debate.

How we deliberate is governed, of course, by a set of Senate rules. I am sure some of them seem archaic when our visitors hear about quorum calls being vitiated, but it is very important to have rules because rules stay in place no matter who is in charge and no matter what matter is before us. Rules create a sense of decorum and fairness not only in this Chamber but for our country.

Only once in the history of the cloture process in the U.S. Senate has the Senate voted to permanently reduce the time we have to debate an issue. That happened in 1986, when we went from 100 hours of something that is called postcloture debate time to the current rule of 30 hours. That basically means there are 30 hours to debate something really important, such as the nomination of a Supreme Court Justice, an ambassador, or who is going to be a Cabinet member. That is the way the rules are now. While there have been contemporary changes to the rules, we have not seen a permanent rule change since 1986.

The resolution we are considering asks us to make a second permanent change. What is the backdrop? Last Congress, the Rules Committee considered a proposal from Senator LANKFORD to cut off debate on the Senate floor. The resolution before us is even more damaging because it would reduce debate time from 30 hours to 2 hours for about 80 percent of the nominees who come before the Senate—including Federal district court judges—giving only 2 hours on this floor to debate.

We have time to debate these judges on the Judiciary Committee, but only a small percentage of the Senators are on that committee, right? Over 75 percent of the Senators aren't on that committee. We also know we have had some judges come before us, and we don't find out things about them until the debate on the floor occurs or Senators haven't decided how they are going to vote until they actually come to the floor. We have had judges who were thrown out—who were rejected, basically—before they came up for a vote because of things that were discussed among Senators when they were on the floor.

Let's face it. Most Americans are understandably unfamiliar with the term ''postcloture'' debate. They don't exactly have the book on Senate procedures on their reading list, but the issue before us has a real impact on the daily lives of every person in this country, and we should be sounding the alarm bells about it.

Healthcare—think of what we just learned this last week when suddenly the Justice Department for this administration announced they were going all out to repeal the Affordable Care Act. What does that mean? Well, for every American—not just Americans who are on the exchanges under the Affordable Care Act—for every American, it would mean they would lose their protection for preexisting conditions. It would mean, if someone has diabetes, if someone has a child with Down syndrome, if someone in their family had a preexisting condition, their healthcare coverage would be subjected to the whims of the insurance companies.

Right now we have protections in place. What does this mean for the rule we are talking about? In the case that started in Texas, that was a Federal district court judge who made the decision on that case. The people who announced it out of the Justice Department at the higher levels actually went through confirmation on this Senate floor so people could debate whether they should be confirmed. The people implementing it at the Department of Health and Human Services, at the management levels, also go through this Senate for confirmation.

Guess what, America. Now not only is this administration trying to ram through the repeal of the Affordable Care Act, which would mean you would lose your insurance if you have a preexisting condition, but now they are trying to ram through the people who would make the decision—the people who would do the work.

Instead of having 30 hours to debate a Federal district court judge just like the one who made the decision in Texas or instead of having 30 hours to debate employees at the Justice Department—managers who would make decisions or higher supervisors who would make the decisions—we would get 2 hours. To me, what is this about? It is about ramming nominations through just like they tried to ram the Affordable Care Act repeal through the justice system in that announcement last week.

For every Congress, there are 1,200 to 1,400 positions in the executive branch requiring the Senate's advice and consent. Under this resolution, 277 of those would get the full 30 hours of debate, including the Supreme Court, circuit court, and the Cabinet-level positions, as well as some of the people who serve on the Securities and Exchange Commission and some of the Commissions we have. That accounts for 277, but that leaves many more—over 1,000—who would only get 2 hours of debate, 2 hours for what are lifetime appointments. Hundreds of these positions—hundreds of these positions—are lifetime appointments.

I believe in this place, once called the world's greatest deliberative body, it is our constitutional duty to fully vet the most senior people in our government—the people who help ensure our air and water are clean, the people who lead our military, and the people who oversee our justice system. It is our constitutional duty to fully vet our Federal judges, those men and women who receive lifetime appointments to uphold the rule of law in America.

On behalf of every American, it is our job to make sure the people nominated to the most senior positions in our government are competent and qualified. These roles are so important that the rules of the Senate are designed to ensure that Senators come to a bipartisan consensus. They don't always do that, but guess what. Sometimes we do. The purpose of these rules is to reject partisanship so we can get nominees who will put the good of the country before politics.

If we eliminate this crucial check on our democracy, allowing the majority party to ram through these appointments, we will undermine our democracy and our government.

Some of our friends on the other side of the aisle who are trying to push this through point to the fact that in 2013, the Senate voted 78 to 16 to temporarily change the postcloture rules on debate time, but it is very important to note that in 2013, the circumstances were very different from what they are today. Nominations required a 60-vote threshold. The blue-slip process for all judicial nominees was respected—unlike now, where it is no longer respected—for the highest courts in the land, such as the circuit courts. A thorough process—and this is important—to select qualified judicial nominees was in place but no longer. Have you seen the statistics that President Trump has had more unqualified nominees than past Presidents who have been rejected by this body?

Despite all of this, important Federal positions remained unfilled, even though qualified nominees were waiting to be confirmed. To address the issue, a bipartisan supermajority of the Senate supported a temporary change in the rules, but that is not what is happening today.

The idea that we are facing similar circumstances in this Congress is unsupported by the facts as well as statements made by some of my Republican colleagues. The truth is—as we have heard the majority leader of this body boast—nominees are getting confirmed, some at paces faster than we have seen in U.S. history.

In 2017, Leader MCCONNELL himself highlighted this fact. He said: ''Senate Republicans are closing in on the record for the most circuit court appointments in a president's first year in office.''

Last year, President Trump said:

> We have the best judges. We put on a tremendous amount of great federal district court judges. . . . We are setting records.

He was right about setting records. In the first 2 years of his Presidency, President Trump had 85 judges confirmed. That is because they focused on getting them through, compared to just 62 for President Obama in the same time period.

President Trump has had 30 circuit court nominees confirmed during his first 2 years in office. This is more circuit court nominees confirmed than any President in history.

That is why they have talked about getting these nominees through like on a conveyor belt. So then the question becomes, why change the rules? Why change the rules? Why change the rules for lifetime appointments and give only 2 hours of debate?

This change is not just unnecessary, it would allow fundamentally unqualified candidates, from judges to administration officials and Ambassadors, to be confirmed.

The American Bar Association has rated six of the judicial nominees put forward by the administration as ''not qualified,'' including three who received that rating unanimously, two of whom were confirmed. In 2 years, more than 30 executive branch nominees and 5 Federal judges have been withdrawn after initial vetting. Because nominees are being rushed through the committee process, postcloture time is critical to our job of evaluating nominees and fulfilling our duty to advise and consent.

For the 78 Senators who do not serve on the Judiciary Committee, this is a critical time to talk to colleagues and staff about a judicial nominee's record. Maybe we don't use the whole time debating them, but guess what happens when you are not marching through these 2 hour blocks of time. You have more time to talk about nominees to each other and evaluate their records.

Last year, two nominees were withdrawn from consideration after their cloture votes had been taken—Thomas Farr, for the Eastern District of North Carolina, and Ryan Bounds, for the Ninth Circuit, Oregon. The withdrawal of these nominees happened on a bipartisan basis. Senators SCOTT, Flake, and RUBIO voiced their disapproval. Bounds' nomination failed and was withdrawn partly because Senator RUBIO changed his mind during that postcloture debate time. These cases show how critical postcloture debate time is for considering nominations. He found out new information that he didn't know before.

Nominees like these clearly demonstrate the importance of carefully and thoroughly considering nominees for executive branch positions and lifetime appointments to the bench. The American people deserve qualified nominees, and it is our job to ensure that we take the time and care necessary to confirm people who will serve their country with distinction.

I appreciate Senator LANKFORD. We work together on many issues—most notably, on election security. But this legislation will remove important checks and balances on a permanent basis, not just on a temporary basis. It happens at a time when we have seen unprecedented numbers of judges confirmed on the circuit basis and a total number of judges much higher than we saw during the same first 2 years of the Obama administration. We also know that we are getting a slew of unqualified nominees.

Finally, we know that this administration just keeps trying to push things through that I consider—and the courts have considered—unconstitutional.

Right now, we have the President going around Congress and the $1.3 billion of appropriated money that was given for security and saying: I am just going to take money away what this Congress has appropriated for other things and use it to build an $8 billion wall.

Not only does that create legal and constitutional issues of eminent domain at the border, but it also creates constitutional issues about the separation of powers and the role of this Congress.

We are at a time when this administration has decided to wreak havoc on people's healthcare by pushing for the repeal of not just part but of the entire Affordable Care Act, which I noted includes those provisions that protect people from being kicked off their insurance for preexisting conditions. The people who make these decisions at the highest levels—at that sub-Cabinet level, which is right under the Cabinet level, the judges who are making these decisions on the district court level, and the workers who are at the higher sub-Cabinet levels at the Justice Department and at Health and Human Services, who would make decisions directly about people's healthcare—are the ones we are talking about with this resolution. These are real issues for real people. While this may all sound esoteric, this is not a time in history to be permanently changing the rules and ramming through a bunch of nominees.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, I ask unanimous consent to be able to speak for up to 10 minutes.

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

Mr. LANKFORD. Mr. President, the Senate is in a bad spot. In the first 2 years of President Trump's Presidency, there were 128 times that the President sent over a nomination and the minority party has said: We want additional time to be able to debate those folks.

These are individuals who have already gone through vetting at the White House. They have already gone through FBI checks. They have already come to the committee. They have done full vetting at the staff level, then had a full hearing at the Member level, and then had questions for the RECORD. They passed out of the committee, then had a lapse of time, and then a majority vote was set up to be able to move them. At that time, there was a request for additional time 128 times.

Just to do a quick comparison of how common that is—because folks say this is normal and this is the way the Senate functions all the time—for President Obama, in his first 2 years, that happened 12 times. For President Bush, that happened a total of 4 times. For President Clinton, that happened a total of 8 times. But for President Trump, it happened a total of 128 times.

This is a new way of operation for the Senate, and I really should say it is a new way of not operating for the Senate. It is an issue that has to change. It is not just about President Trump. It is about this body, who we are going to be, and how we are going to operate.

In the past, when there was a nomination from a President, there was the assumption that the President was elected and they could hire their staff. Now the resistance has stepped up and said: The President is elected, but we will not let you hire a staff, and we will not let you put your policies in place because we want to prevent you from getting any people into a spot.

Guess what. As soon as there is a Democratic President elected—and at some point in the future, there will be—Republicans will retaliate back to that and say: We will do the same thing. You can't hire your staff.

This is a new precedent that has been set. If we don't correct it, it is damaging to our Republic. A President should be able to hire their staff. All of the Agencies need Senate-confirmed individuals to be able to actually conduct their business. We need judges to be able to execute across the country. Those are basic things that need to occur.

I have heard folks say: Well, there has been no problem getting judges through. In fact, Republicans have bragged about the total number of judges coming through.

Let me give you a comparison. If we stay on the same pace right now with judges—just for the district court judges, which are the most common judges across our country—and President Trump is in office for 8 years, he will have put in 193 judges. President Obama put in 272 judges. It is factually not true that we are able to ram through all of these judges to be able to work through the process. We are not on an epic pace.

There has been a higher number for circuit court judges, which is correct, because this Senate has prioritized working on circuit court judges, but that is to the detriment of everything else because you can't do all of it because there is this constant request for additional time at the end of it.

Again, I have heard folks say that two hours is not enough time to be able to debate. That would be true only if 2 hours was the only thing that was allocated for debate. These individuals have already been through vetting at the White House and vetting in committee. They have gone through the process and have been approved. This is not 2 hours of time. It is actually 26 hours of time because people are conveniently leaving out the fact that there is an intervening day required. We are talking about nominees moving from 54 hours of floor debate time to 26 hours of floor debate time. It is just convenient to leave out that extra day that happens to be in there, if you want to make the argument.

Our simple conversation is this: How can we get the Senate back to work again? In 2013, Harry Reid led a movement, which 78 Senators approved of, to be able to say that for 2 years—2013 and 2014—we would fix the nominations process in the Senate. There was wide agreement to be able to do that. At the time, Harry Reid stood on the floor and said: Now, let me make this clear. We shouldn't have all of these nominees go through postcloture and all the debate on the floor anyway. Most of these passed through committee. They should be done by voice vote. In the rare exception that someone has to come to the floor, let's limit the floor time because it is not really used anyway. It is just a tactic to delay.

If you need evidence of that, there is all of the conversation that has recently been held on this floor about debate and about how we need to have all of this additional time for debate because these are lifetime appointees, these are essential people, and so they need to have a debate on the floor about them. Let me tell you what that really looks like in real life. That sounds very sanctimonious here on the floor.

In real life it looks like this. Here are the circuit court judges we have confirmed this session of Congress so far. These are for the circuit court. This is the appellate court. These are very important folks in the process. These folks currently have 30 hours, and for all of these folks, there was a demand to get 30 hours of extra debate time on the floor because they were so important.

Here is the actual problem. When that 30 hours of debate time was done and was blocked off, and that was respected, the first of the circuit court nominees actually got on the floor 1 hour and 16 minutes of actual debate, not 30 hours. People actually coming to the floor and debating that nominee was 1 hour and 16 minutes. The next nominee had 18 minutes and 57 seconds total of debate on this floor, although 30 hours of debate was blocked off, which meant most of the time the floor was empty, waiting for someone to actually debate. The next nominee was 1 hour 23 minutes.

Then, there is one my favorites. A circuit court judge had 4 minutes and

22 seconds of actual debate when 30 hours of debate was demanded for this lifetime appointment. The next circuit court judge was 23 minutes and 6 seconds.

The next one for the DC Circuit was actually very controversial. There was lots of noise about this nominee: 47 minutes and 28 seconds.

It is one thing for folks to say these are lifetime appointments so we need to make sure we block off a significant period of time on the floor. It is another thing to actually see the facts. These folks have gone through committee and we all know it. They have gone through background checks and we all know it. Every one of these individuals has been cleared and we know the outcome of all of these. We should respect each other and acknowledge that if this body is going to do legislation and personnel, no one can lock up the body and demand 30 hours of time on a nominee when we actually use 4 minutes and 22 seconds.

If we want to shift it off of judges and shift it onto executive nominees, recently we had a demand for 30 hours of additional debate time from our Democratic colleagues for the Bureau of Labor Statistics nominee. They demanded extra time because they were so controversial. On this floor, there was exactly zero minutes and zero seconds of debate on that nominee.

You see, this is not about actually debating whether people are qualified or not qualified. This is about preventing President Trump from getting nominees by locking up the floor and making sure he can't actually hire staff or can't actually put people on the court.

This will be reciprocated in the days ahead for every Democrat, and it will be done to every Republican President in the future if we don't fix this now. We had 2 years and 3 months of bad muscle memory on a process that should not be like this and has not been like this in the past. We can fix this.

When there was a Democratic President and a divided city, led by Democrats at the time, Republicans joined Democrats to be able to fix that nomination process for a Democrat President. The mistake we made was to do it only for a 2-year time period. We should learn from our mistake, and we should fix this from here on out. This is doable.

To give an example, in the last session of Congress, 386 nominees were never heard on this floor. They were sent back at the end of Congress and told: You have to start all over again. Those are folks who quit their job, went through FBI background checks, went through reviews, went through hearings, and confronted all the questions that were brought at them, and 386 of them were then stalled out and never heard. They were sent back to the White House.

That means that in the future we will have less opportunity to get more people who are qualified to be able to apply for this. We want the best of the best to actually come and serve in our government. We will not get that if people have to quit their jobs to go through the nomination process, wait a year or 2 years, and then get sent back and told: You have to start all over again to go through the process.

Who will want to go through that process in the days ahead? We need to fix this both for the nominees who are going through the process and the Senate, which needs to have a better process of actually expediting nominees through. Quite frankly, we need to fix it for the country.

It is a simple process. It is not trying to gain partisan advantage. Regardless of who is in the White House, it is trying to fix it for the long term. Let's fix it this week. We have talked about this for 2 years. We have floated different proposals. Let's fix it this week and, from here on out, have a better process in the Senate.

Why in the world are we arguing about our rules of the Senate when we should be worrying about the issues the American people face? Of all places, of all people, we should have fair rules in the Senate to actually have a debate, have a vote, finish, and then move on to the next thing. There is more to be done.

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. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to speak on the floor for no more than 15 minutes.

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

Mr. DURBIN. Mr. President, there is an issue coming up before the Senate this week which really goes to the heart of this institution and why it exists. The Constitution spells out responsibilities for Congress and specific responsibilities when it comes to this Chamber. The 100 men and women who serve today, among other things, have a responsibility to advise and consent on nominations that have been sent by the President for our consideration. The Constitution assigns the Senate the role of questioning these nominees, of checking into their backgrounds, and then of deciding whether to approve or disapprove their nominations.

Over the past 2 years, we have seen many of the guardrails in this process disappear. For example, the Republican majority has stopped respecting blue slips on circuit court nominations. Blue slips, which are a Senate tradition, say that if a person is nominated to serve on the circuit court, which is the second highest court in the land, the Senators from the State within which that person would serve would decide with a thumbs up or a thumbs down as to whether the nomination will go forward—the so-called blue slip. For a number of years now, that has been the U.S. Senate's standard practice, its tradition. The Republican majority has decided to stop the blue-slip process when it comes to circuit court nominations.

It also has stopped moving bipartisan board and commission nominations in pairs. We used to say: We have a more trusting relationship if you get your Republican nominee and if we get our Democratic nominee. Let's do it together. That used to ensure that both parties would be equally represented on important Agencies, such as the Securities and Exchange Commission, the National Labor Relations Board, and the Federal Deposit Insurance Corporation, to name a few.

Now we have a rules change before us that is being proposed by the Republican side of the aisle—again changing the rights of Senators by limiting the debate time on nominations. This would further tilt the balance of power away from the Senate, away from Congress, and back towards 1600 Pennsylvania Avenue, the Executive. It runs the risk, of course, of diminishing our constitutional responsibility.

When it comes to executive branch nominations, this administration has had a different approach than what we have seen before. We have a President who says he likes to have administration officials serve in an acting capacity.

In January, President Trump said:

I sort of like acting. It gives me more flexibility. Do you understand that? I like acting.

Given that approach, perhaps it is no surprise that we have seen long delays in filling leadership positions in important Agencies and ambassadorial posts. We have also seen the highest rate of turnover in modern time with these administration positions. People aren't placed in these positions, and if they are, they are looking for the exit way too soon.

We also have suffered from a lack of proper vetting and examination of a person's background before a nomination is approved, and we have seen a lack of bipartisan cooperation in moving board nominations when there is supposed to be an equal number of Democrats and Republicans. Despite that, we are trying to do the work we were assigned by the Constitution to advise and consent.

If the majority wants to move Executive nominations faster, it can do what all administrations have done in the past and start working with the minority to negotiate packages of nominees. As long as I have been here, that has been done by the leaders of both political parties—fair, bipartisan packages of Executive nominees who have been well vetted. None of us wants the embarrassment of putting a person in the position for which one is not qualified or when there is any question of one's ethical standards. That bipartisan

work can lead to less debate time on the floor if we agree at the outset to work together.

I am particularly opposed to the Republican proposal before us to shorten the time for debate on President Trump's nominees who will serve lifetime appointments in Federal district court. Imagine serving a lifetime appointment on a court—beyond this administration—and making day-to-day decisions, some fundamental to the criminal justice system and some to the civil justice system.

We understand what is really going on here. We understand when the other side says we are obstructing it from confirming judges. The facts don't tell the same story. In fact, my Republican colleagues have been bragging for months about what Senator MCCONNELL called the ''record number'' of judges the Senate has confirmed under this new President Trump.

In President Trump's first 2 years in office, the Senate confirmed 85 article III judges. During the first 2 years of President Obama's Presidency, it was 62. Eighty-five to sixty-two. The number of judges confirmed in the last Congress was nearly four times as many as the number confirmed under President Obama in the previous Congress.

The pace of judicial nominations and confirmations has been extremely fast. So why are the Republicans now pushing for a change to the Senate rules to make it even faster? It is not like the Senate has been busy with legislation here on the floor.

Senator MCCONNELL had a moment of candor last November after the election.

He said:

> I think we'll have probably more time for nominations in the next Congress than we've had in this one. . . . I don't think we'll have any trouble finding time to do nominations.
>
> Senator MCCONNELL, McClatchy News, November 7, 2018.

Of course, Senator MCCONNELL was frustrated that one Senator put a blanket hold on judicial nominees at the end of last year, and he expressed his frustration publicly. That Senator, incidentally, was not a Democrat; he was Republican Senator Flake of Arizona.

It seems the real reason the Republicans want to change the rules now on district court nominations is so, in the words of Senator MCCONNELL, they can ''plow right through'' with confirming nominees whose records and views are incomplete or extreme.

The reality is that all too often, these judicial nominees just don't stand up to scrutiny. Already, under President Trump, we have had six judicial nominations in which the American Bar Association's peer-review process found these nominees sent by President Trump to be ''not qualified.'' I might add that there were no—zero, none—''not qualified'' nominees under President Obama.

Last year, two nominees, Thomas Farr and Ryan Bounds, were withdrawn on the floor by the Republicans after the Senate had voted to move forward on their nominations. Disclosures about their backgrounds led Members even on the Republican side of the aisle to say they wouldn't vote for them. They were withdrawn because information came to light that caused these Senators to change their minds about confirming them to lifetime appointments. That shows the importance of having some time—30 hours currently—to debate these nominations and to make sure that a lifetime appointment is not going to someone who is unqualified or who shouldn't be in that position.

So who are the district court nominees for whom Senator MCCONNELL wants to change the rules so as to move them through more quickly? Let me tell you about a few of them.

There is Texas district court nominee Michael Truncale, who called President Obama an ''un-American impostor'' and described the Shelby County case, when it came to voting rights, a ''victory.''

There is Nebraska nominee Brian Buescher, who ran for elected office in 2014 and said: ''I will focus on fighting ObamaCare.''

There is Texas district court nominee Matthew Kacsmaryk, who has repeatedly written in his personal capacity about his opposition to LGBTQ rights and the Obergefell case.

There is Oklahoma district court nominee Patrick Wyrick, who is a protege of disgraced former EPA Administrator Scott Pruitt's. He allowed an energy company to ghost-write a letter from Pruitt's office when he was Oklahoma's attorney general.

These are just a few. There are many other Trump judicial nominees whose views are far outside the legal mainstream, and Republicans are determined, with these rule changes, to speed up the process so we don't ask questions.

I have to say it is stunning to listen to Republicans complain about obstruction of judicial nominees after watching the unprecedented Republican obstruction of nominees under President Obama.

Under Senator MCCONNELL, Republicans would not even give an appointment for an interview, let alone a hearing, to a well-qualified Supreme Court nominee—Merrick Garland.

In 2013 Republicans pledged they would filibuster anyone who President Obama nominated to the DC Circuit Court of Appeals, the second highest court in the land. No matter how qualified the nominee, they pledged to block him or her because President Obama was making the choice.

Republicans filibustered President Obama's judicial nominees 82 times in the first 5 years. Under all Presidents before President Obama, there had been a total of 86 judicial filibusters combined with all Presidents. Under President Obama, in the first 5 years, there were 82, and throughout history leading up to that, 86.

Now that the Republicans control the White House and the Senate, they want to rip up the rules and change the traditions and guardrails on the judicial nomination process on a regular basis.

They are pushing through nominees who have not been found qualified by the American Bar Association. They are pushing through nominees over the objection of home State Senators. They are pushing these nominees without making sure that they have seen their complete records.

In the case of a North Carolina district court nominee, Thomas Farr, his nomination was pulled when critical documents were finally disclosed while his nomination was pending on the floor of the Senate.

It is no secret what is happening here. There is no emergency that justifies changing the Senate rules. Senator MCCONNELL himself admitted the Senate has plenty of time to consider nominees. This is all about avoiding close scrutiny for extreme ideological nominees that Republicans want to pack onto the Federal courts for lifetime appointments.

I oppose the rules change. Let's do our job when it comes to conducting due diligence and providing informed advice and consent for lifetime appointments to the Federal bench. It can be done.

I will tell you that in the first years of the Trump administration, we have been able, by and large, to work out bipartisan agreement on filling judicial vacancies in the State of Illinois, even at the circuit court level, to the point where Senator DUCKWORTH and I gave blue-slip approval to circuit court nominees based out of our own State, and to the point where we have reached a basic agreement when it comes to filling the district court vacancies to this point. It has been bipartisan all the way, and I believe we have found qualified people. It took some time and some bipartisan cooperation, but we did. It can be done. We didn't ask to have the rules changed in the Senate. We used the existing rules to do our job under the Constitution.

All the issues we care about are impacted by these nominees in my State and others. The Senate deserves to take the time to make sure we get this right. We should not be putting men and women into lifetime appointments without close scrutiny as required by our Constitution.

I yield the floor.

RECESS

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

Thereupon, the Senate, at 12:48 p.m., recessed until 2:15 p.m., and was reassembled when called to order by the Presiding Officer (Mrs. CAPITO).