

**THE PRESIDING OFFICER.** (Mr. SCOTT of Florida). Without objection, it is so ordered.

**MR. PORTMAN.** Mr. President, we are in session here on a Sunday in Washington for a rare Sunday session in the U.S. Senate so that we can confirm a terrific woman to be the next Justice of the Supreme Court.

There is an open seat right now that needs to be filled, and Judge Barrett, who is currently a judge on the circuit court, one level below the Supreme Court, has really impressed me and the American people with her performance.

I had a chance to meet with her this past week, and I was already impressed but even more so, having had a chance to spend some time with her. I had been impressed with her performance at the hearing because I thought she showed great patience and calm in the face of some really tough questions. To me, that is judicial temperament, and I think that will serve her well in her new role as Justice of the Supreme Court.

I have also been impressed with her qualifications. I don't think anybody can say she is not highly qualified. In fact, the American Bar Association, which does not always look favorably at Republican appointees, was, in her last confirmation, convinced that she was highly qualified, and again, in this one, they gave her their highest qualification. That is impressive.

As has been talked about on the floor tonight, she actually has been through this process before—and pretty recently. I think less than 3 years ago she was confirmed by this same body, and it was a bipartisan vote, and it was an opportunity for people to get to know her. So this is not as though we have brought somebody forward who isn't already known, who isn't already deemed to be very well qualified. In fact, I don't know anybody in this Chamber who doesn't think that she is well qualified and that she has done a good job as a judge and a lawyer.

She graduated first in her class at Notre Dame Law School, and then she went back there and taught. She won the Teacher of the Year Award three times when she was at Notre Dame, and, most importantly to me, she is just widely respected by her colleagues. These are professors. She is also widely respected by her former students. These professors and students, by the way, are representing the entire political spectrum from very liberal to very conservative. All of them say the same thing about her, which is that she is a legal scholar, that she is highly qualified, and that she is a good person.

In our meeting I got to see some of that. I saw in our meeting that she is a great listener. People talk about active listening. She was really interested in what the topics were and had very thoughtful responses.

She is also a legal scholar who understands very clearly what the role of the Supreme Court should be in our separation of branches in our governmental

system here. I think that is really important. As I said to her in our meeting, I hope she will be an ambassador, and I think she will. In fact, I think she will be an extremely effective ambassador—as the youngest member of the Supreme Court and also as a former teacher—with regard to young people, to help them understand what it means to have a judicial branch and how it is different from the legislative branch or the executive branch for that matter. Judges are not supposed to be legislators. That is not what they are hired to do. Yet in some cases we have gotten the sense that judges ought to be deciding issues that are reserved for those who are elected by the people; that is, the legislators.

Judges have an important role, and that is to look at the laws and to look at the Constitution and to determine whether something is consistent with those. That is what she will do, and I think she will do it very fairly, with compassion and with a great understanding of the legal issues and precedent.

She explained before the committee that she was respectful of precedent. She also told me that in our meeting. I think she has the proper understanding of the role of the Court and her role as a Justice.

I am looking for the opportunity to finally vote. I guess we will do that tomorrow night, sometime in the evening, and I hope it will be a strong vote. I hope it can be even a bipartisan vote, as it was last time she was confirmed by this same body.

#### CORONAVIRUS

**MR. PRESIDENT,** while the Senate continues to work through this important process of the next Supreme Court nominee, I am also here on the floor today to remind all of us that we are still in the middle of an unprecedented healthcare and economic crisis caused by this ongoing coronavirus pandemic. I am here to express my frustration that the sense of urgency and compromise that we had for the first several months of this coronavirus seem to have disappeared as we have approached the election.

The Democratic leader today raised the seriousness of the pandemic. Something said on the other side of the aisle was that we shouldn't even be taking up a Supreme Court nominee because of the seriousness of the pandemic and the need to focus on that.

I don't understand why then, on Wednesday, the same Democratic leader and his colleagues blocked even taking action on the coronavirus or even having a debate on whether to take action because, once again, they blocked a legislative initiative to have a discussion about this issue.

By the way, it is a discussion about an issue that affects every single one of our States. Again, we are not out of the woods, so we should be not just discussing it but passing legislation on it.

The legislation that we have introduced might not be legislation that

every Democrat can support. In fact, I think there were some things that were in our bill that some Democrats might not love. But for the most part, there were bipartisan proposals that everybody can support, and all we asked for was to be able to get on the bill to have a debate. Yet we had to have 60 votes to be able to do that. That is the supermajority that is required around here, and those 60 votes could not be found, even though last Wednesday the \$500 billion package got a majority vote. There was a majority vote for this package but not the supermajority needed. It was blocked by the other side.

If we had gotten on the legislation and had the debate about what the PPP program ought to look like, how much money should be used for testing, what we should do with regard to liability protections, Democrats would have had the opportunity to put their own ideas forward, to offer their own amendments, and I would have strongly supported them in that process.

Also, some of us had some additional amendments we would like to have added and changes we would like to have seen. But, ultimately, if Democrats or Republicans found that they didn't like the final product that came out of that discussion, that debate, they would have had another chance because there would have been another 60-vote hurdle to get over before passage of the legislation.

I know this is sounding like a process issue, but it really is not. It is about doing our jobs as Senators. Both Republicans and Democrats care about this issue, yet we just can't seem to figure out how to get it unfrozen here and to be able to move forward. Having blocked, again, even having a debate on moving forward was very discouraging to me.

#### CORONAVIRUS

**MR. PRESIDENT,** the economy is still struggling. As I said, we are not out of the woods yet, particularly in the areas of hospitality, travel, and entertainment. We are not out of the woods on the virus yet, either, with many States seeing a third wave right now. That is what I would describe is happening in Ohio, my home State. I have watched the numbers every single day this week. Not only are the number of cases increasing, but the hospitalizations went up this week. The number of people in ICU went up and fatalities went up.

It is critical that this Congress provide additional relief to help the American people get through this healthcare crisis and economic fallout we have seen. We have done it before. Five times Republicans and Democrats on this floor and over in the House and working with the White House have passed coronavirus legislation—five times. In fact, most of the votes have been unanimous. It is unbelievable because here we are in this partisan atmosphere, but most of the votes have been unanimous.

These laws have helped address both the healthcare crisis and the economic free fall that were caused by the virus and the government-imposed shutdowns. And for some of my colleagues who are concerned about the cost, I would just say again—government-imposed shutdowns. Many of these businesses in my home State that are struggling, you know, they were told to shut down, and they do need our help. They deserve our help. The same government that insisted that they not be in business ought to help them now to get back in business and stay in business.

The biggest of these bills that this body and the House and the White House worked hard on and passed is called the CARES Act. A lot of people have heard about it. It is a piece of legislation that was very important at the time but needs to be extended, in essence, now. It was passed by a vote in this Chamber of 96 to nothing.

Unfortunately, since May of this year, when the last of these bipartisan bills was enacted, partisanship has prevailed over good policy, and Washington has been paralyzed, unable to repeat the coming together for the good of all of us.

For months, Democrats insisted that the only way forward was a bill called the \$3.5 trillion Heroes Act, which passed the House of Representatives 4 months ago along partisan lines. It included things unrelated to COVID-19, and you can argue about those things. The SALT—the State and local tax deduction—is in there, as an example. That has nothing to do with COVID-19. It is a tax break, frankly, for wealthier individuals. Most of that tax break would go to people who are wealthy, and about half of it goes to people in the top 1 percent. There are immigration law changes in that legislation that are very controversial. Should we have a debate separately? Of course, but not in a COVID-19 bill. There are other policies in terms of election law and how States would handle their elections that had nothing to do with COVID-19.

Also, it was \$3.5 trillion. Now, we are facing this year not just the largest deficit in the history of our country but also a debt as a percentage of the economy, which is how most economists look at our fiscal problems—what is the debt as a percentage of the economy? It is as high as it has ever been, with the possible exception of World War II—a year when we had huge military expenditures, but pretty quickly the economy grew, and we didn't have this big overhang of the entitlement spending that already has us in a structural debt.

So \$3.5 trillion is a lot of money. When it passed the House, it was the most expensive legislation ever to pass the House of Representatives by far. When it did pass, by the way, POLITICO and others in the media accurately called it a messaging bill that they thought had no chance of becoming

law. There is a good reason for that—\$3.5 trillion and, again, the items there that did not relate to the coronavirus crisis.

Since that time, Senate Republicans have provided some reasonable alternatives to this partisan proposal with targeted coronavirus response legislation—bills that help us directly address the healthcare and the economic crisis by investing in bipartisan approaches that we know work.

The last legislation that was offered here on Wednesday was about \$500 billion. That used to be a lot of money. Again, Democrats probably objected to some specific elements of it, like liability protection, but we should have had the opportunity to debate that and have a discussion. But on Wednesday, Democrats blocked it.

Their position has been very clear, as I see it. They are going to stick with Speaker PELOSI no matter what, and I understand that from a negotiating position. They think she is the one negotiating with the White House; therefore, they are not going to get involved. I have talked to some of my colleagues on the other side of the aisle who have expressed the same frustration I am expressing right now. Gosh, why can't we get together between Republicans and Democrats and support something that is a compromise? But I think they have been told by their leadership: No discussion; no debate; we are going to stick with whatever the Speaker wants.

Again, coming up to the election, it is my sense that what the Speaker wants is not to have a result. That is my sense. You have heard the President say very clearly he is willing to spend even more than the Speaker wants to spend. I am not suggesting that is the position that every Senate Republican has because many believe we spent a lot of money and we need to be very careful and be much more targeted given the fiscal situation we talked about earlier.

Steven Mnuchin, Secretary of the Treasury, has been very interested in getting a result and has, in good faith, been negotiating. But, again, we have not been able to make any progress because the notion is that we are going to stick with the Speaker's position no matter what. So instead of a compromise, we have zero relief. Instead of \$3.5 trillion or \$2.4 trillion—whatever the number is and whatever the Republican number is—we have zero relief that has been provided in the last several months. There has been sort of an all-or-none attitude—either we do it her way, or we get nothing.

Three separate times on this floor, Democrats have even blocked proposals to temporarily extend the Federal unemployment insurance supplement that expired in August so that folks who were relying on that money could continue to make ends meet while we negotiated a long-term solution. This week, they blocked a reasonable approach on unemployment insurance, I

believe. It was \$300 per week Federal supplement on top of the State unemployment, and they blocked it, saying that wasn't enough and we need to stick with \$600. So, again, it is either \$600 or nothing.

I will say that the \$600 benefit is pretty generous. The Congressional Budget Office has told us that 80 percent of the people who are on unemployment insurance going forward—if we continued \$600, 80 percent would be making more on unemployment insurance than they would be making at work. Talk to your businesses back home, and what they will tell you is that this has been a problem in getting people back to work when they can make more—sometimes significantly more—on unemployment insurance.

But how about \$300? How about a compromise? Some people will make more. In fact, a lot of people will make more on unemployment insurance than they do at work at \$300 but not 80 percent of the people. Some will make more; some will make less.

Last week, I finally thought we had a breaking point because the Speaker of the House had Members of her own caucus calling her to work with the White House to pass at that time what was a \$1.8 trillion package, but my understanding is, that wasn't good enough.

Let's get back to the commonsense ideas we can all agree on. By the way, many of these are in this targeted legislation that the majority of Senators voted on this past week, on Wednesday—again, a majority but not the supermajority needed to get it passed.

First is on the healthcare response, particularly on testing, and in Ohio, we need it right now. We need more money for testing. Republicans and Democrats alike know that is critical to stopping the spread of the disease and getting people more comfortable going back to work, going back to school, and going back to their local businesses to buy things. We need the Federal help on testing.

We also need help to continue investing in developing treatments, and, of course, we need to invest in a vaccine to get a vaccine as quickly as possible. The targeted bill that came to the House this past week did just that—provided \$16 billion for increased testing and contact tracing and an additional \$31 billion for vaccine development. That is the kind of support we need right now.

Second, we agreed that Congress shouldn't continue to have this situation where small businesses are being forced to close their doors. We all want to help small businesses. That was in the targeted bill also.

One way we have agreed across the aisle is to have this PPP program—the paycheck protection program—be in effect, and the targeted legislation did just that. It restarted the Paycheck Protection Program, which was included in the CARES Act but expired on August 8. So since August 8, we haven't had it. This was a smart program that provided low-interest loans

to small businesses—loans that effectively became grants if they used them for certain purposes, like payroll to keep people employed but also their rent and their mortgages and utilities.

At least 140,000 Ohio businesses in my State of Ohio—140,000 businesses—small businesses, have benefited from the PPP, saving what we think are at least 1.9 million jobs. Wow. We all know we need to extend that program. I think everybody agrees on that. I don't know a Senator in this Chamber, Republican or Democrat, who hasn't had the experience back home of a small business saying: I couldn't have stayed open without this. I have had that conversation dozens of times. A lot of these businesses were able to use this PPP loan to weather the storm. Some have seen their businesses now pick back up, and they are hiring again, and that is great.

I recently had a virtual roundtable with manufacturers all over Northeast Ohio—the Cleveland area and the Akron area. They were hit hard by the early shutdowns. They put their businesses at risk, but thanks to the PPP loans they received, they were able to keep their employees on payroll and keep the doors open. Do you know what most of them did? They did something related to helping. Some made ventilators. Some made masks. Some made gowns. So they were able, during this slow time, to actually help to push back against the coronavirus. Now they are back in business. Now they are able to employ people, to hire people, and to pay taxes and provide revenue to the government. That is what we want.

There are others, however, who desperately need continued PPP just to stay in business. I mentioned the hospitality industry earlier, the entertainment business, and the travel business. They have to have the PPP loans now—now—or they may close. Some have already closed because the program has been shut down since August 8 because we can't seem to get our act together to provide the help. That was in the targeted bill.

By the way, it makes PPP more targeted and more focused because we don't want to waste money; we want to focus it on companies that really need it. That is bipartisan also. Let's do it.

Beyond PPP, Congress should help invest in businesses to reopen safely and effectively. Small business owners I have spoken to during this pandemic and especially in recent weeks have told me that they are eager to reopen but they want to open in a safe manner. That is the sweet spot here. We don't want to close down the economy, but we do want the economy to be reopened and stay open safely.

There are examples of how we can do that that this Congress should pass on a bipartisan basis. One is an expanded tax credit to incentivize new hiring through the work opportunity tax credit and the employee retention tax credit. We also have a new tax credit

called the healthy workplace tax credit. It is very simple. It helps businesses pay for protective equipment like plexiglass, hand sanitizer, and face coverings. These are credits against payroll tax that will help businesses rehire workers, reopen safely, and take these critical steps to let our economy recover.

I will continue to push this in every coronavirus package. You know what, it has total bipartisan appeal because it is exactly what we ought to be doing—reopening, yes, but doing it safely. Let's give businesses the incentives to do that.

It is expensive to purchase PPE, particularly when you have tight revenues, which a lot of businesses do right now. They want the help to be able to do it and do it right.

Third, of course, we agree we need to invest in our schools and our State and local governments. With colleges and K-12 education trying to reopen around the country, it is critical that students don't lose any more progress in the classroom. We need to make sure schools have these resources to reopen and to stay open with adequate protective gear and social distancing policies and, again, plexiglass and other things to make it safe.

The \$105 billion that was in this legislation on Wednesday that was voted down—\$105 billion for ensuring that schools are safe—is actually more than was in the original House-passed Heroes Act. So, let's find a compromise here, but you can't say that helping the schools is a reason to vote no.

State and local governments need support and more flexibility too. Ohio cities have been hit particularly hard because they rely on revenue from income taxes more than other cities around the country, and that income tax revenue has been lower than any of their projections.

The targeted bill would have helped by extending the timeline in which CARES funding could be spent beyond the end of this year. I have heard this repeatedly from our Governor in Ohio, Mike DeWine, and also from local officials in Ohio: Don't make us spend all the money by yearend. We can spend it more effectively if you give us some flexibility on that.

None of us should want to do that. We always complain about the Federal rule where you are telling an agency “You have to spend the money by yearend; use it or lose it” because it encourages them to go ahead and spend it, even though they don't need to, so they can have the same budget next year. Let's let them have the flexibility to spend the money as they need it.

We all know now that this virus isn't going away in calendar year 2020. It is going to be around in 2021. Let's give them that flexibility.

With this extended timeline, we should also provide flexibility so they can be certain that they can spend the money where they need it, including for public safety—police, fire, EMS.

Fourth, we all agree we have to make sure Americans have adequate access to telehealth and telehealth medicine. Most of us in this Chamber have probably utilized telehealth services during this pandemic, and we know that they work.

Telehealth has been a lifeline for millions of Americans, particularly for those fighting addiction, for those who have behavioral health issues, mental health issues, who can't currently receive in-person care to help in their recovery.

I have worked with the Trump administration to expand telehealth and delivery options for opioid treatment, which, in some instances, has even allowed addiction specialists to reach new patients. I love hearing that—that in this dark cloud, one silver lining is that telehealth has actually been successful and helped people, including mental health providers and drug treatment providers, to reach new people whom they couldn't reach previously.

However, the reforms that we have in place now, based on the previous legislation I talked about, are only temporary. The bipartisan legislation we have introduced, along with my colleague SHELDON WHITEHOUSE, is to make these telehealth options permanent. It is called the TREATS Act. That should be in any coronavirus package, and it would be.

Finally, we need to chart a path forward on the issue of expanded unemployment insurance. Unemployment is down from the highest we saw in the spring, and it has been very encouraging to see how many new jobs have come back. It exceeded all expectations, everybody's—OMB's, CBO's, outside projections.

But unemployment is still way too high. We are still at 8.9 percent in Ohio, and it is probably about 8 percent nationally. Think of this. We went from the lowest unemployment we have seen in decades just before this virus, more like 3.5 percent—record lows for Blacks, Hispanics, disabled, women—and now we have about 8 percent unemployment—more than double that.

I said earlier that Congress allowed the original unemployment insurance supplement to expire without a replacement. When that happened, the Trump administration stepped in and used \$44 billion from FEMA's Disaster Relief Fund, which had received funding from the CARES Act to temporarily add a \$300-per-week Federal supplement called the Lost Wage Assistance Program. This program funded 6 weeks of expanded unemployment insurance and also encouraged States to provide their own match.

What happened was that every State but two took the government up on that. They didn't add their match, but they did take the 300 bucks, and a lot of people who had lost their jobs through no fault of their own were able to be helped through this Executive action.

Unfortunately, we are now at a point where this program has been tapped out. Why? Because the \$44 billion that was set aside in the Disaster Relief Fund is gone, leaving \$25 billion to deal with natural disasters, which is what the Disaster Relief Fund is intended to do. And they need that money. We shouldn't use any more of that. So we are back to square one.

People who have had unemployment insurance since the disaster began because they might work in hospitality, entertainment, travel, some businesses where they can't go back—a lot of those folks now are seeing just a State benefit or no benefit.

The Republican proposal actually had a long-term solution by providing \$300 per week through December 27—basically, through the end of the year. That was in the package that was just voted down. So Democrats, who say they want \$600, voted down \$300 because it wasn't enough. Well, somebody who is on unemployment is probably wondering: Why not just compromise and at least get me the \$300 so that I can pay my rent, I can pay my car payment, I can make ends meet, even though I can't go back to my job?

So if nothing else comes out of these coronavirus negotiations, let's at least provide more funding for the Disaster Relief Fund so that we can continue to respond at the executive branch level. If Congress can't get its act together, at least continue the \$300 through the way the administration was doing it for 6 weeks. We have proposed legislation to do just that, replenishing the Disaster Relief Fund so that this vital unemployment insurance supplement can continue that the administration had in place.

If we can't pass a bigger package, why can't we just pass that? Why can't we just pass PPP? Why can't we just pass something for testing? Why can't we just pass something to ensure that we are helping right now during this crisis?

The bottom line is that there is still a lot for Congress to do to help lead the country through this coronavirus crisis we find ourselves in. Between bolstering our healthcare response, promoting a stronger and more equitable economic recovery, getting the necessary funding to our schools, providing that flexibility I talked about earlier to governments, ensuring that our constituents can make ends meet as they deal with sudden unemployment and other challenges, we have a lot of opportunities to help our country weather the storm of this pandemic.

I hope things will change soon. Maybe it will change on the election. Maybe after the election there will be a different attitude. I hope so. I hope that at least in the lame-duck session of Congress, if we can't get our act together this week, we can figure out how to recapture that spirit of bipartisanship we saw this spring, to negotiate in good faith, come to an agreement—and fast. Our constituents need it. Let's get it done.

I yield back my time.

**THE PRESIDING OFFICER.** The Senator from Delaware.

**NOMINATION OF AMY CONEY BARRETT**

**MR. CARPER.** Mr. President, I rise this afternoon to share with you and our colleagues some of my thoughts concerning the nomination of Judge Amy Coney Barrett to serve as an Associate Justice of the Supreme Court of these United States.

I believe it was Winston Churchill who once said these words: "The further back we look, the further forward we see." So let me begin today by looking back in time—way back in time.

More than 230 years ago, during the Constitutional Convention in Philadelphia, just up the road from my family's home in Wilmington, DE, our Founders debated at great length on how to create a different kind of government—an experiment, if you will, in which a nation's citizens would elect their own leaders, and a system of checks and balances would ensure that country would never—never—be led by a tyrant.

Among the most contentious issues they debated during that summer of 1787 in the City of Brotherly Love was the creation of a Federal judiciary. Our Founders disagreed, oftentimes strongly, about what our judicial system should look like and how judges should be selected: Who would nominate them? Who would confirm them? Would they serve one term, multiple terms, or would their appointments be lifetime in nature?

When the Framers appeared to be hopelessly deadlocked, members of the clergy were brought in to pray that God would provide the leaders with the wisdom to break the impasse.

In the end, it apparently worked, and our Founding Founders ended up adopting a compromise very similar to one they had rejected just a few weeks earlier; namely, the President would nominate judges to serve lifetime appointments with the advice and consent of the Senate.

Not surprisingly, almost 240 years later, we are still sparring over what those words should mean.

Having said that, the blueprint that was drafted that year and later ratified by the 13 States would go on to become the most enduring and replicated Constitution in the history of the world.

Among our most important sworn duties here in the U.S. Senate is to act as caretakers of that Constitution and the rights it provides for our citizens while protecting this unique system of checks and balances that provide the foundation on which our democracy is built.

That brings us to the present. This past week, Republican Members of the Senate Judiciary Committee voted to advance Judge Barrett's nomination to the floor of the Senate, but they have done so, I fear, at great cost to this body and quite possibly to our democracy.

When our Founders carefully designed our system of checks and bal-

ances, they did not envision a sham confirmation process for judicial nominees. But as much as I hate to say it, that is what this one has been, pure and simple. This entire process has become an exercise in raw political power, not the deliberative, nonpartisan process that our Founders envisioned.

Frankly, it has been a process that I could never have imagined 20 years ago when I was first elected to serve with my colleagues here. Over those 20 years, I have risen on six previous occasions to offer remarks regarding nominees to the Supreme Court as we considered the nominations of Chief Justice Roberts, Justice Alito, Justice Sotomayor, Justice Kagan, Justice Gorsuch, and Justice Kavanaugh.

One name not mentioned among the six I have just listed is that of Judge Merrick Garland. After being nominated by President Clinton to serve on the DC Circuit Court of Appeals—that is the top appellate court in the country—and confirmed by a Republican-led Senate with a bipartisan margin of more than 3 to 1—76 to 23, in fact—Judge Garland has served with distinction on our top appellate court since 1997, including for many years as its chief judge.

President Obama later nominated him to serve on the Supreme Court 237 days before election day in 2016—237 days before election day.

By submitting the name of Judge Garland to the U.S. Senate for consideration 4 years ago, President Obama, who was twice elected by clear margins in both the popular vote and the electoral college, nominated a man who spent his entire 20-year career as a judge working to build consensus and find principled compromises. Yet we never got a chance to consider Judge Garland's nomination to serve on the Supreme Court on this Senate floor.

Judge Garland wasn't given a vote either in committee or here in the U.S. Senate. Judge Garland wasn't given a hearing. Most of our Republican colleagues wouldn't even meet with him, even though many of them had voted earlier to confirm him to, again, serve on the top appellate Court of our land.

Judge Garland's nomination languished for 293 shameful days. A great many Americans believe that it is the equivalent of stealing a Supreme Court seat. A good man—a very good man—was treated badly and so, too, was our Constitution.

Still, many of our Republican colleagues assured us that if the tables were turned later on, they would hold themselves to the same standard and only allow the next President to fill the Supreme Court seat should a vacancy occur during an election year.

Then, on September 18, 2020, Justice Ruth Bader Ginsburg passed away, 46 days before a Presidential election. And with her death, most of our Republican colleagues changed their tune almost overnight.

Today, with more than 220,000 Americans dead and more than 8 million