



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 117<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 168

WASHINGTON, THURSDAY, MARCH 17, 2022

No. 48

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable JACKY ROSEN, a Senator from the State of Nevada.

### PRAYER

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

Let us pray.

Eternal God, our shelter from the storms, protect the Ukrainian people as they trust You for safety.

Lord, all the good we will ever have comes from You. You have been faithful to Your people for millennia. Do not disappoint us now in this season of desperation. We see no other God but You, as this conflict continues to maim, kill, and destroy.

Lord, provide our lawmakers with the wisdom to cooperate with Your divine omnipotence in accomplishing Your purposes on Earth. May generations not yet born be told that You saved your people.

We pray in Your powerful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer 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.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 17, 2022.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JACKY ROSEN, a Senator from the State of Nevada, to perform the duties of the Chair.

PATRICK J. LEAHY,  
President pro tempore.

Ms. ROSEN thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session and resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Alison J. Nathan, of New York, to be United States Circuit Judge for the Second Circuit.

#### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### ST. PATRICK'S DAY

Mr. SCHUMER. Madam President, first, I see that you and many on the podium are decked in green. Happy St. Patrick's Day to all of you and to all of America.

### NOMINATIONS

Madam President, now, yesterday, the Senate moved forward on a dozen judicial and administrative nominees,

many of them with solid bipartisan support.

Today, we will hold three more floor votes: two to confirm a pair of district judges and one to move on the nomination of Judge Ali Nathan for the Second Circuit.

When I met Judge Nathan 10 years ago, I thought, "Here is someone truly special and truly brilliant," and, a decade later, I still hold that view.

Ask her colleagues on the bench or ask her colleagues from private practice or even the likes of President Obama, and they will all say the same thing: Judge Nathan is a first-rate jurist and a consensus builder by nature.

I am pleased the Senate is acting on this well-deserving judge today, setting up a final confirmation vote next week.

#### NOMINATION OF JUDGE KETANJI BROWN JACKSON

Madam President, speaking of nominations today, today is the last day the Senate will meet before we begin a truly historic series of hearings next Monday, starting at 11 a.m. The Senate Judiciary Committee will begin hearings for Judge Ketanji Brown Jackson's nomination to the U.S. Supreme Court.

These televised judiciary hearings will give millions of Americans a chance to hear from the judge directly for the first time since her nomination. These hearings matter. Americans deserve to hear for themselves from Judge Jackson, whose decisions will echo across American law for a long, long time.

Of course, the historic nature of this nominee must not be minimized. Of the 115 Justices who have sat on the Court, only 5—only 5—have been women; only 2—2—have been African Americans, Justices Thurgood Marshall and Clarence Thomas; only 1 has been Hispanic, Justice Sonia Sotomayor from the Bronx.

But, to date, never has an African-American woman come before the Judiciary Committee for consideration to the highest Court. Judge Ketanji Brown Jackson will be the very first.

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



Printed on recycled paper.

S1229

And the public will also see that her credentials, her vast experience in both public and private practice, and her near 9 years on the Federal bench make her stupendously qualified to bear the title "Justice."

I thank Chairman DURBIN and the members of the Judiciary Committee for their work orchestrating what has been a fair and quick nomination process, and all of us look forward to next week's hearings.

## OIL

Madam President, now, on oil, I want to return to a worrying trend. Over the past few days, the price of crude has actually gone down, but the average price of a gallon is still stuck at nearly \$4.30. If anyone thinks this is fair, efficient, or sensible, they are probably an oil executive. No matter what, the divergence between the price of crude and the price of a gallon is causing immense—immense—damage to American families at a time when they are all struggling to make ends meet.

Meanwhile, it is nothing short of repugnant for oil companies to be touting what are truly dizzying profit margins while soaking American families with these exorbitant prices. Last year, the top 25 oil and gas companies reported a combined \$205 billion in profits. And what have they done with this avalanche of cash? Invest in new technologies? Nope. Give Americans a break at the pump? Nope.

They have been using their profits to reward shareholders by implementing stock buybacks. Listen to this. According to a recent Bloomberg report, in the fourth quarter of last year, oil and gas companies increased stock buybacks by over 2,000 percent from the previous year—2,000 percent—and none of it to produce more energy or invest in new technologies; just a massive windfall for shareholders. And their increase in stock buyback over the previous year is more than any other industry by quite a large margin.

The Senate, I am glad to say, is soon going to call executives from oil and gas companies to come testify and explain why they see fit to reward shareholders instead of finding ways to give Americans a break at the pump.

## RUSSIA

Madam President, finally, on PNTR, on a final note, the House today is expected to vote on legislation revoking permanent normal trade relations with Russia.

For weeks, Members of the Senate, the House, and the White House have been working together to draft a strong and effective bill that will increase the pain on Putin's Russia and that our European allies will accept. To date, both parties, Democratic and Republican, remain united in sending Putin a clear message. His inhumane violence against the Ukrainian people will come at a crippling price.

And today's step by the House is another way we are making that come true. When the House passes this bill, I expect it will have broad bipartisan

support here in the Senate, and I will work with my colleagues to find a way to move it through this Chamber quickly.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

## NOMINATION OF KETANJI BROWN JACKSON

Mr. MCCONNELL. Madam President, next week, the Judiciary Committee will hear firsthand from President Biden's Supreme Court nominee Judge Jackson. It will be a serious and dignified process. The American people need answers to more important questions than what somebody wrote in the nominee's high school yearbook.

The Senate needs to examine Judge Jackson's qualifications, and we need to examine her judicial philosophy and see if she will apply laws as written and weigh cases without favoritism. And we need to explore why the farthest left activists in the country desperately wanted Judge Jackson, in particular, for this vacancy.

Judicial philosophy is a key qualification for the Supreme Court. There are plenty of smart lawyers in the country, but they don't all understand that a judge's proper role is to apply the text of the laws neutrally. Some would rather start with liberal outcomes and reason backward.

So it is unsettling that senior Democrats have lauded Judge Jackson for the "empathy" they suggest shapes her judicial approach. So if you are the litigant for whom the judge has special preexisting empathy, well, it is your lucky day; but the other party is being denied their fair day in court.

The Senate Democratic leader, the House majority whip, and multiple legal academics all say Judge Jackson will rule with "empathy." Helpfully, one professor clarified which kinds of litigants would benefit from her empathy. He proposed that because of Judge Jackson's "ample criminal defense experience," she would "bring a measure of empathy to the criminal defense cases, the Fourth and Fifth Amendment cases."

So liberals are saying that Judge Jackson's service as a criminal defense lawyer and then on the U.S. Sentencing Commission give her special empathy for convicted criminals. Her supporters look at her resume and deduce a special empathy for criminals. I guess that means that government prosecutors and innocent crime victims start each trial at a disadvantage.

That isn't my assertion. That is what the nominee's liberal supporters are all saying. In fact, the nominee has all but

said it herself. Here is what the Washington Post reported last year when Judge Jackson was nominated to the DC Circuit:

She and her allies credit her work as a public defender as helping her develop empathy.

And here they quote the nominee herself:

There is a direct line from my defender service to what I do on the bench, and I think it's beneficial.

So, look, nobody is saying that public defenders ought to be disqualified from judicial service. It is an important role. But as the New York Times reported this week, the Biden administration is on an intentional quest to stuff the Federal judiciary full of this one perspective. Even amid a national crime wave, a disproportionate share of the new judges President Biden has nominated share this professional background that liberals say gives judges special empathy for criminal defendants.

Here is the New York Times:

It is a sea change in the world of judicial nominations. . . . The type of high-profile murder cases handled by some of Mr. Biden's nominees would have been considered disqualifying only a few years ago; now the president . . . is actively seeking to name more jurists who have such experience.

It is not just Judge Jackson.

At least 20 other lawyers with significant public defender experience have been nominated by the Biden administration.

One soft-on-crime advocate marveled to the reporter:

We have never seen anything like this.

Such enthusiasm.

President Biden is deliberately working to make the whole Federal judiciary softer on crime. Even liberals admitted as much. They actually applaud it. But with murders and carjackings skyrocketing nationwide, I doubt the American people feel the same way.

I look forward to learning more about how Judge Jackson believes her service as a criminal defense attorney leads her to interpret the text of our laws and our Constitution differently than other judges. If any judicial nominee really does have special empathy for some parties over others, that is not an asset; it is a problem.

## ENERGY

Madam President, on another matter, as Democratic policies have unleashed runaway inflation, families have felt particular pain at the gas pump.

Since President Biden took office, gas prices have climbed nearly \$2—\$2. The Biden administration wants to claim that a full year's worth of price hikes were all caused by a war Putin started 3 weeks ago. But this fictional version of events doesn't fool anyone.

Two years ago, then-candidate Biden told everyone he was ready to wage war on the most reliable forms of American energy:

No ability for the oil industry to continue to drill, period. [It] ends.

That is President Biden.

I guarantee you . . . We're going to end fossil fuel.

In other words, either the Biden administration has a shaky understanding of supply and demand or soaring energy prices have been baked into their agenda right from the beginning.

For 14 months now, energy policy has followed a disturbing pattern. First, the Biden administration rolls out a direct attack on American energy, then working families feel the pinch, and then Democrats try to deflect the blame. Take the Keystone XL Pipeline. President Biden made canceling it a day one priority. Then, as gasoline, diesel, and other energy prices climbed, the White House justified itself by saying the project would have taken years to affect prices anyway.

The problem is, back during the Obama administration, their own analysis suggested the project would be fully operational by 2013. They spent a decade fighting against a pipeline that would have taken a couple of years to come online by complaining it was not immediate enough.

That was their argument a decade ago, and it is their argument now. The pipeline could have been built multiple times over in the time the Democrats spent resisting it. Besides, if slow construction were really the problem, the administration would be rushing to rein in their own regulatory army that is handcuffing other new and existing pipelines with mountains of extra bureaucracy.

Just weeks ago, while Putin was already amassing forces and trying to make energy hostages out of Western Europe, the Biden administration's Federal Energy Regulatory Commission went out of its way to make permitting new American natural gas pipelines radically more difficult.

Here is yet another example. Last year, the Biden administration directed the SEC to prioritize discouraging loans, capital, and financing for fossil fuel energy projects. But now that a worldwide scramble has sent prices sky-high, the administration blames the industry and says it is "time for oil and gas companies to work with Wall Street to unleash our productive capacity." The administration that campaigned on ending fossil fuels now claims the fossil fuel companies are just layabouts who don't want to drill. It is enough to make your head spin.

Oh, and President Biden rushed to lash America back to the mast of a climate deal that actually gave China a pass to keep increasing their emissions. As Germany prepared to give Putin an even tighter hold on Europe's market for natural gas with the Nord Stream 2 pipeline, President Biden fought bipartisan efforts to stop the pipeline.

His response to soaring prices hurting families last year was to go hat in hand and beg OPEC and Russia to produce more. And now that Russia has invaded Ukraine, the Biden administra-

tion is reportedly exploring more imports—listen to this—from Venezuela and Iran, totalitarian regimes with contempt for human rights and the environment.

So it turns out the Biden administration doesn't mind fossil fuel production after all. They just don't want to "Buy American." The administration will buy oil from the Supreme Leader of Iran; they will buy oil from Maduro. If North Korea had oil, they would probably try to buy that, too. Anything—anything—to avoid keeping those jobs and that energy independence right here in the USA.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

MONACAN INDIAN NATION

Mr. KAINE. Madam President, I rise today to speak about a really important victory in Virginia yesterday—a victory for the Monacan Indian Nation, and it is a victory that I have had a hand in over the course of many years. I want to describe it and celebrate it.

When the English came to Virginia first in 1607, there were thriving Virginia Native populations. The populations east—in eastern Virginia, east of Richmond—were part of a larger confederacy called the Powhatan Confederacy, and they spoke an Algonquian-based language. There were Tribes in the southern part of Virginia that spoke an Iroquois-based language, and Tribes in the western part of Virginia spoke a Sioux-based language. One of these Tribes was the Monacan Tribe.

John Smith, in 1607, 1608, and 1609, traveled all around the Chesapeake Bay and its tributaries and did some very detailed mapmaking of the area, including a town that he called the chief Monacan town named Rassawek. Rassawek is on a point of land in what is now Fluvanna County, VA, where the Rivanna River and the James River combine.

Rassawek was the headquarters, or the chief administrative town, of the Monacan Tribal Nation. The story of the Virginia Tribes is one of triumph, but also one of tragedy. Many of the Tribes made peace treaties with the English in the 1670s. All of these Tribes were discriminated against, and some were driven far from their homes.

The Monacan Tribe was driven by the English settlers from Rassawek, further west into Amherst County, and then many of them were driven even further west into the middle west end and other places. But Rassawek maintained its sacred status to the Monacan Nation for many reasons, including the fact that so many of Monacan families were buried there and their remains are still there.

An aspect of the tragedy of the Virginia Tribes is that: When I was elected to be a Senator in 2012, none of the Virginia Tribes had ever been recognized, even though many still live intact in communities in Virginia. There were over 500 Tribes that had been federally recognized. The Virginia Tribes are

part of exhibits at the Smithsonian Museum at the foot of Capitol Hill; and yet they had never been recognized. And they had never been recognized for three reasons.

One, they made peace treaties with the English rather than with the United States. Often, recognition begins with the treaty entered into with the United States. Second, often, recognition is determined by extensive submission of land records and other records. Many Virginia courthouses were burned during the Civil War, and so records establishing Tribal lands, for example, were destroyed.

But, finally, and most cruelly, Virginia had an official named Walter Plecker who served as the State's director of the Department of Vital Statistics from 1920 until the 1960s. And he was a eugenicist. He believed there was no such thing as Indians, that they were all color. And, systemically, he determined to take every record he could find of Tribal communities in Virginia and change the racial designation of those records—birth certificates, marriage licenses, death notices—of Indian members to "color," even to the point of disinterring Indians who had been buried in cemeteries that were primarily cemeteries for Caucasians. This made it, again, very difficult for these Tribes. They refer to this as the "paper genocide" for them to assert their claim for Tribal recognition.

I started working with the Monacan and six other Tribes when I was mayor of Richmond on this issue because I became friends with a guy named Steve Adkins, who is the chief of one of these Tribes, the Chickahominy Tribe.

We worked over the course of many, many years—these Tribes coming to Congress and asking for Federal recognition. And when I came into office in January of 2013, this was very, very high on my to-do list, to finally right this historic wrong and correct an injustice and allow these Virginia Tribes—whose stories are so well known and still live in these communities—to finally be recognized.

Now, we have gotten seven Tribes recognized—one through the Bureau of Indian Affairs process, the Pamunkey Tribe, and six through an act of Congress. I thank the Presiding Officer because all of my colleagues joined together at the end of 2018 and, in a unanimous vote, finally did justice by the Virginia Tribes, including the Monacan Tribe.

Now onto Rassawek. The Monacans were driven further west and now have their, sort of, Tribal headquarters in a place called Bear Mountain in Amherst County. The chief of the Tribe is a man named Ken Branham. Ken is a good friend.

In 2014, a local authority, the James River Water Authority in Fluvanna County, decided that strategic location at the merger of two rivers would be a perfect place to build big water treatment intake and treatment facility. It

is a growing community. There are more water needs in the community. The facility was needed, but the site they chose for the construction of the facility was Rassawek.

The authority proceeded forward to purchase the land and then undertake engineering studies to build this water treatment facility. At the time, 2014, the Monacans had not yet been federally recognized. They could complain, and they could argue, but they didn't have the clout that Federal recognition would eventually give them. Yet many people rallied to the Monacans' cause and said, "Look, we preserve other sites all the time."

Virginia is first in the Nation in preserving, for example, Civil War battlefield sites, and we preserved the ancestral home of the Powhatan of Werowocomoco on the York River, which is soon to be a national park. Should we allow Rassawek to be essentially destroyed and the remains of Monacans buried there for generations to be disturbed?

Armed with Federal recognition, the Monacans attracted even more support. The National Trust for Historic Preservation, in 2020, named Rassawek as one of the most 11 endangered sites in the country. A huge grassroots effort developed because of the hard work of the Tribe that assembled thousands and thousands of supporting individuals—some very nearby Rassawek, but some very far away—to advocate that there has to be a better solution for this water treatment need in Fluvanna County than to disturb and destroy Rassawek.

Yesterday, the James River Water Authority, in a unanimous vote, decided to set aside their plan to do the water intake facility in Rassawek and to donate the land that they have purchased for that facility to the Monacan Tribe. The Monacan Nation, in gratitude, pledges to work together with the James River Water Authority to find a more acceptable site. A number of alternatives have already been identified.

This summer, I was canoeing on the James River. I canoed the entire James River from where it starts, the Allegheny Mountains, to Fort Monroe in Chesapeake Bay—350 miles. It took me 26 days that I spread over the spring, summer, and fall. One day in August, I was canoeing from a town called New Kent to Columbia, passing Rassawek, which was on river left as I went downstream.

So I reached out to Chief Branham, knowing that the fight about the future of Rassawek was underway. I said: Could you and Tribal leaders meet me? I will pull my canoe onshore when I pass by. Meet me and talk to me about the status of this fight and why it is so important to the Monacan Nation to win.

So coming down the river with a friend, my former State director who used to work on this Tribal recognition issue, John Knapp—I want to thank

him, as well as other staffers, Evan and Nick and Tyee and Mary and other staffers in my office, who worked on this. John and I pulled our canoe over on the shore in this beautiful spot in rural Virginia where the two rivers come together. We beached the canoe on a sand point, climbed a bluff, and met Chief Branham and other members of Monacan leadership to see the beauty of the site and to share a meal but also to talk to them about the importance of Rassawek and why they really, really needed to win this battle. They don't have a plan to develop Rassawek. They are not going to build anything there. They just want it to be preserved in its natural beauty out of respect for Monacan people who have lived there for nearly 5,000 years. Yesterday, this unanimous vote by the local water authority—a vote of respect, a vote of acknowledgment—recognized that this is a sacred site.

We in Virginia, we love our history. We love our history, and we don't want to lose it. The history of the Monacan Nation, the history of all of our Tribes is worthy of battling. You don't win every battle. The Monacan Nation won a really important one yesterday, and it might not have happened. Ninety-nine of my colleagues joined with me to make sure that the Monacan Nation and the other Virginia Tribes were finally, after hundreds of years, given Federal recognition.

I just wanted to express my congratulations to the Monacan Nation and my appreciation to my colleagues for helping me do something good.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### NOMINATION OF GIGI SOHN

Mr. THUNE. Madam President, the Senate Commerce Committee recently voted on the nomination of Gigi Sohn to be a member of the Federal Communications Commission. I voted against her nomination for a number of serious reasons, as did the 13 other Republican committee members.

I was deeply disappointed that not one of my Democratic colleagues on the committee stepped forward to affirm what should be glaringly obvious: that Ms. Sohn is not an appropriate candidate for a position on the Federal Communications Commission.

One substantial concern I have with Ms. Sohn's nomination is her extreme position on net neutrality.

Back in 2014, the Obama administration decided that the Federal Government wasn't regulating the internet enough. So in 2015, the Obama Federal Communications Commission passed what was known as the Open Internet

Order—misabeled, I would add, but which dramatically expanded the Federal Government's power over the internet. The justification for this massive regulatory expansion was net neutrality.

Now, net neutrality is a concept that enjoys broad support in both parties. I support net neutrality and rules that prevent blocking, throttling, and the paid prioritization of internet traffic. I don't think a major service provider should be able to block a small news startup. But what the Obama FCC did in 2015 went far beyond net neutrality. The Obama FCC asserted broad, new government powers over the internet using rules that were designed for telephone monopolies back during the Great Depression. This opened the door to a whole host of internet regulations, including price regulations, and unsurprisingly, broadband investment declined as a result.

That was a problem for Americans generally, who benefit when the United States is at the forefront of internet growth and expansion, and it was particularly bad news for Americans in rural States like South Dakota. Getting broadband to rural communities is already more challenging than installing broadband in cities or suburbs, and the possibility of heavier regulations acted as a further disincentive to expanding access.

Fast-forward to 2017, and the Federal Communications Commission under Chairman Pai voted to repeal those heavyhanded regulations passed by the Obama FCC, and here is what happened: Broadband investment rebounded, and broadband access expanded. Internet speeds increased. Our Nation positioned itself at the forefront of the 5G revolution. While European internet providers were slowing internet speeds during the pandemic, American providers were increasing them. All this despite the repeal of the heavyhanded internet regulation Democrats claimed we needed—or more accurately, because of the repeal of the heavyhanded regulation Democrats claimed we needed.

Why do I go into all this history? Well, because Ms. Sohn not only wants to bring back the heavyhanded internet regulation of the Obama administration, but she wants to go further and have the FCC regulate broadband rates and set data caps.

Just as service providers are working to implement nationwide 5G networks, Ms. Sohn wants to reinstate rules that will discourage broadband investment and diminish access opportunities for Americans outside of major cities and suburban areas. That is a big problem. The light-touch approach to internet regulation that the Federal Government has historically taken has resulted in growth and access, both of which would be threatened by Ms. Sohn's agenda.

Now, while I was very pleased that the FCC under Chairman Pai repealed

President Obama's heavyhanded internet regulation, I believe the best solution for the long term is for Congress to step in and pass bipartisan net neutrality legislation. Swings in net neutrality policy from administration to administration do not encourage long-term broadband investment.

I believe there is bipartisan support for a long-term legislative solution but not, it would seem, from Ms. Sohn, who has openly disparaged bipartisan work on this issue. Now, I think Ms. Sohn would be fine if Congress produces a bill to her liking, but I have serious concerns that if she thought a bipartisan solution didn't go far enough, she would ignore the will of Congress and use her position at the FCC to impose the heavyhanded regulatory regime she favors.

As a resident of a rural State, I am also concerned about Ms. Sohn's position on expanding broadband access to rural communities—an issue every Member of this body cares deeply about. She has been publicly hostile to the efforts of rural broadband companies in expanding reliable internet access to rural areas, while at the same time supporting the use of scarce government dollars to build new internet networks in already well-served urban areas.

As someone who has worked long and hard to expand internet access for unserved Americans, I find her hostility to rural broadband companies very troubling. The vast majority of these companies have spent years building out reliable networks to some of the most remote parts of the country, allowing more rural areas, like those in South Dakota, to reap the benefits of advanced services in healthcare, education, and economic development.

It is not only Republicans who have taken note of her hostility to the needs of rural Americans. Our former Democratic colleague from North Dakota has also questioned how one could support rural broadband and Ms. Sohn.

Ms. Sohn's policy positions alone would lead me to oppose her nomination, but there are other even more troubling factors that should be leading Members of both parties to oppose her nomination.

To start with, Ms. Sohn was not forthcoming to the Commerce Committee about her past history on the board of a company that was ordered to cease operations after being found in violation of copyright laws. This raises serious concerns about her fitness to sit on the FCC.

After questions were raised about her involvement with this company's settlement with broadcasters, she did volunteer to recuse herself, if she is confirmed, on a variety of issues related to broadcasting and copyright violations. But why on Earth—why on Earth should we choose a Commissioner who would have to recuse herself from participating in substantial parts of the FCC's work? How does it serve Ameri-

cans to have an FCC Commissioner who can't fully do her job? Surely, there are other qualified nominees who don't have Ms. Sohn's conflict of interest.

But my objections don't end there. While I am concerned about Ms. Sohn having to recuse herself from doing parts of her job, I am most concerned about whether or not Ms. Sohn can do any part of her job in a fair and impartial manner.

Ms. Sohn has a history of virulent partisanship and far-left activism, including support for such far-left initiatives as defunding the police. She has publicly expressed her disdain for Republicans, and she has a record of outspoken criticism of the very same conservative media outlets that she would be responsible for regulating. Perhaps the most notable example is her hostility towards FOX News, which she has referred to as "state-sponsored propaganda" and accused of playing a role in "destroying democracy."

"Destroying democracy."

And yet we are supposed to believe that she would approach cases involving the FOX corporation impartially? I think it is pretty clear that would not be the case.

I don't expect a Democrat nominee to the FCC to agree with Republicans on all the issues—far from it. But I do expect a Democrat nominee to do his or her job and do it in an impartial and unbiased manner.

In the case of Ms. Sohn, President Biden has nominated someone who cannot fulfill part of the responsibilities of FCC Commissioner and whose record strongly suggests that she cannot be relied upon to fulfill any of her responsibilities in an impartial manner.

Americans deserve an FCC nominee who can do her job impartially, no matter what the matter before the Commission. And I hope that if Ms. Sohn's nomination comes to the floor, at least some of my Democrat colleagues will join Republicans in opposing her nomination.

We should all be able to agree that virulent partisanship and an inability to fulfill the responsibilities of one's job are disqualifying characteristics for a role on the FCC.

I yield the floor.

The PRESIDING OFFICER (Ms. DUCKWORTH). The Senator from Alabama.

#### PROTECTION OF WOMEN AND GIRLS IN SPORTS ACT OF 2021

Mr. TUBERVILLE. Madam President, today I want to talk about the real March madness that we are having this month, moments about basketball and the tournament, but I want to talk about the madness of attacking title IX, attacking women's sports, and attacking women in general.

Last night marked the beginning of the 2022 NCAA Women's Swimming and Diving Championship. Instead of celebrating the many hard-working women who earned their spot in the championship, I expect much of the media atten-

tion to be around a singular competitor—a transgender athlete who competed as a male as recently as 2019.

But the discussion should not be about inclusivity; it should be about fairness. I have spoken about this issue before and, last March, actually forced a vote on the amendment that would have prevented Federal funds from going to educational institutions that allowed biological males to compete in women's athletics.

Unfortunately, colleagues on the left were more interested in pandering to the far left than they were in protecting the ability for girls and women to participate in fair—and I repeat, fair—competition. They refused to support my amendment.

And I would argue that by allowing biological males to compete in women's athletics, Democrats have set serious efforts for women's equality back by decades. And, ultimately, this will have the effect of discouraging many, many, many young women from participating in sports.

In a recent article, two parents of a current collegiate athlete said:

I think the NCAA needs to change its policies, and find a way to include transgender women without trampling all over biological women.

I agree.

Well, the NCAA has been silent. They have failed to take decisive action in ensuring a level playing field for all of women.

And so now Congress must act to do so. This is why I joined Senator MIKE LEE and 16 fellow colleagues in introducing the Protection of Women and Girls in Sports Act of 2021. This is critical legislation that would make it a violation—a violation—of title IX for a recipient of related Federal funds to permit a biological male from participating in an athletic program or activity designated for women and girls.

The bill would also establish the definition of "sex" in title IX as based "solely on a person's reproductive biology and genetics at birth."

It is imperative for Congress to act so that an entire generation of women aren't discouraged from pursuing their athletic dreams, whether on the field, whether on the court, or whether in the swimming pool.

As some of the most talented female swimmers in the country prepare to compete over the next few days, it would be wrong not to call out the inherent unfairness in allowing a biological male to participate in several women's events.

Penn's transgender athlete will compete in the women's 100-, 200-, and 500-yard freestyle events. Just a few short years ago, this athlete was competing in men's collegiate swimming events.

Since being allowed to switch, this swimmer has shattered—and I mean completely shattered—records in women's events.

In December, at the Zippy Invitational, this athlete set new national and school records in the 1,650-, the

500-, and the 200-yard freestyle events and continues to dominate the competition.

At the invitational, this swimmer won the 1,650-yard freestyle with a new record time of 15:59.71. The second-place swimmer finished 38 seconds later.

At the Ivy League Championships last month, this swimmer broke the 200-yard freestyle record of 1 minute and 43 seconds, beating out the last record by over a half a second, and the pool record was beat by 2 seconds.

Having been a coach for 40 years, I can attest more so than anyone in Congress that there are fundamental differences between men and women when it comes to sports. But you don't have to take my word for it. A recent study concludes that "on average, males have (1) 40-50 percent greater upper limb strength, (2) 20-40 percent greater lower limb strength, and (3) an average of 12 pounds more skeletal muscle mass than age-matched females at any given body weight."

Lungs are bigger; heart is bigger. Competing in swimming, in the women's swimming division, has given this Penn athlete an unfair advantage that no one else in the field can overcome.

Some have been too afraid to speak up, fearing they will be sacrificed at the altar of political correctness, or that they will be canceled if they say it is unfair for a biological male to compete against a biological female, or that they will be shunned if they don't embrace inclusivity over fairness.

But some have already bravely voiced their opinion.

The advocacy organizations Champion Women and Women's Sports Policy Working Group released dual petitions on Tuesday with over 5,000 signatures, asking for policymakers to prioritize "fairness and safety for females" instead of "blanket transgender inclusion or exclusion" in women's sports.

The petitions were organized by three-time Olympic gold medalist, and the founder of Champion Women, Nancy Hogshead. According to Champion Women, the petitions were signed by nearly 300 Olympians, Paralympians, and U.S. national team members, as well as over 2,500 athletes who have competed at the high school, club, or collegiate levels.

This is why Congress must act to pass the Protection of Women and Girls in Sports Act of 2021.

Allowing biological males to compete in women's athletics threatens—threatens—to undo all progress that has been made under title IX.

Title IX has provided women and girls the long-denied platform that had always been afforded just to men and boys. It ensures female athletes had the same access to funding, facilities, and athletic scholarships. Before title IX, female athletes received less than 2 percent of the college athletic budget—only 2 percent—and athletic scholarships for women were virtually nonexistent.

And since the 1970s, when I first started coaching, female participation at the college level has risen by more than 600 percent.

So this week, the NCAA championship will once again emphasize that the debate is not limited just to the Halls of Congress, but one that we are seeing play out across the country.

It is an undeniable fact that biological males have a physiological advantage over females—a fact. So let me be clear: The question here is not should we be inclusive and supportive of all athletes; it is how.

The first step the Senate can take to address the wrong that the NCAA has allowed to happen is to pass S. 251.

There is an attack on women's sports. In the long run, there is an attack on women in this country. It has to stop, and it has to stop now.

So I ask my colleagues to stand up for America's female athletes and women all throughout this country and support these efforts to preserve women's sports.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. MARKEY. Madam President, I ask unanimous consent that the Senate consider the following nomination: Calendar No. 643, Laura S. H. Holgate, to be Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador; that the nomination be confirmed, the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nomination; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

The Senator from Florida.

Mr. SCOTT of Florida. Madam President, reserving the right to object, the Biden administration has failed to properly oversee the Pan American Health Organization, or PAHO.

President Biden and Secretary Blinken know that PAHO has cooperated with the communist regime in Cuba to traffic doctors overseas, and they know there are Cuban doctors who are trying to sue PAHO and hold traffickers accountable.

Here are the facts. In July 2013, the Cuban Ministry of Health signed an agreement with the Brazilian Ministry of Health to formalize an arrangement for Cuban doctors to provide medical services in Brazil.

That agreement required the administration of former Brazilian President Dilma Rousseff to transmit a monthly payment through PAHO to the Cuban Ministry of Health for the medical services provided by each Cuban doctor serving in Brazil.

It also prevented Cuban doctors from seeking employment in Brazil outside

of the formal structure of the arrangement.

More than 20,000 Cuban medical professionals serving in Brazil under the Mais Medicos Program had their wages stolen by the Cuban Government and received only a small fraction of what they earned, and that was with the support of PAHO.

Their family members were prohibited from accompanying them, and many had their passports confiscated.

Cuban doctors were the only medical professionals participating in the program who had their salaries directly garnished by their government. Meanwhile, doctors from other countries, serving in Brazil, received their full wages for their medical services.

Other Cuban doctors have suffered similar abuses in Angola, Guatemala, Mexico, Qatar, and Venezuela.

For example, in 2019, a group of Cuban doctors reported they had been directed and often coerced to use their medical services to influence votes in favor of the Maduro regime, including by denying medical treatment to opposition supporters and by giving precise voting instructions to elderly patients.

This gross program is a huge money-maker for the communist thugs ruling Cuba.

In 2018 alone, they pocketed more than \$6.3 billion from exporting Cuban professionals to work overseas. This is clearly human trafficking, and medical missions by Cuban doctors represent a majority of those profits.

Since I have been in the Senate, since 2019, I have been fighting for these Cuban doctors and against human trafficking. But actually nothing has been done to hold PAHO accountable. PAHO is hiding behind legal immunity. President Biden has the power to lift their immunity, and I have requested his administration do so multiple times, but they have shamefully declined. It is wrong.

Victims of human trafficking deserve to see their alleged abusers in court, and PAHO should never be able to hide behind claims of immunity to avoid accountability for their role in facilitating those abuses.

I have informed Secretary Blinken that until substantial steps toward fulfilling this request are made, I will be blocking all relevant State Department nominees.

Americans deserve qualified and competent people in positions of power who put American interests first. If this administration wants to appease dictators like the Castro and Diaz-Canel regimes and go to Venezuela and try to buy oil, I am going to hold them accountable.

Therefore, Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts.

Mr. MARKEY. Madam President, I appreciate the concerns that my friend from Florida has raised. However, I am just struggling to see how the safety

and security of Ukraine's 15 nuclear reactors, in the midst of the largest recurrence of warfare on the European Continent since World War II, has any relationship to the issue which he raised.

Russia is blocking International Atomic Energy Agency access into Ukraine. The proper response by the Senate—by the Senator from Florida—is not to block our Ambassador to the International Atomic Energy Agency at a time when Putin, at a time when Lavrov, are talking about nuclear weapons.

We need a representative to the International Atomic Energy Agency. That is what the Senator from Florida is blocking right now on the floor—just did it.

All across our country Americans are right now wondering, is a nuclear war once again possible? What if the Russians launch a tactical nuclear weapon into Ukraine against a nonarticle 5 country; what is our response?

They are wondering, does the IAEA have access to the 15 Ukrainian nuclear powerplants that the Russians, with military force, are taking over?

What are the protections that are going to be put in place in order to ensure that we, in fact, have done everything that we can do to avoid a nuclear accident, either a nuclear weapon or a nuclear powerplant accident?

That is where we are right now, and what I hear from the Senator from Florida is a disposition on a subject completely unrelated to those issues, as Americans are all tuned in on a daily basis in a way that they have not since 1962 to the very real potential that there could be a nuclear exchange—nuclear weapons exchange—between Russia and the West.

So, from my perspective, this is a historic moment that we have to come together in a bipartisan way to provide a response—a response to Russia, a response to their allies—that we are deadly serious. Instead, what the Senator from Florida has done is to arrive to object to the confirmation of Laura Holgate so that she can be there.

She is fully qualified. She is an all-star in her knowledge of all of these issues, but she won't be on duty. She won't be there with our allies, with the technical experts on all nuclear issues, because of this objection which we just heard.

From my perspective, we are at a pretty big turning point here. We need to be talking to everyone. We are either going to know each other or we are going to exterminate each other. That is the point in time at which we are at. We are either going to talk to each other or we could potentially slip into an accidental nuclear catastrophe that historians and future generations of young people will look back and say: How did that happen?

Well, one of the reasons why it can happen is we can't even get an American to be confirmed by the Senate at this time of great crisis because of an

objection from the Republican Party. I mean, partisanship should stop at the water's edge, but when you are talking about nuclear weapons, there shouldn't even be a discussion about it. We should just let this highly qualified woman get on the job to use her expertise in defense of our country and in defense of everyone on the planet because this could quickly—quickly—trigger accidents that escalate, and then the unimaginable could happen.

So that is where we are right now. We need an ambassador to draw attention to the danger of Russian forces, especially holding Ukraine's nuclear operations at gunpoint. We need an ambassador to demand that Russia accept the IAEA's offer to establish a presence in Ukraine to ensure the continued safe operation of Ukraine's nuclear facilities.

Russia knows from the aftermath of the Chernobyl nuclear accident, the worst in history, that deadly radioactive fallout does not respect borders.

And we need an ambassador at the IAEA to perform a wide array of duties outside of the Ukraine crisis, from keeping nonnuclear weapon countries nonnuclear and making sure that this doesn't trigger attempts by other countries to gain access to nuclear materials and then nuclear weapons. And we have to make sure, ultimately, that we confirm Laura Holgate.

First, she served the same role in the Obama administration. She hits the ground running. She knows these issues. Second, she is a protege of Senator Sam Nunn and Senator Richard Lugar, and like that legendary bipartisan duo, she has devoted her career to dismantling weapons of mass destruction and materials that could be used by terrorists as dirty bombs.

So how is it that we still don't have an ambassador seated at the International Atomic Energy Agency's meetings on Ukraine, given this body unanimously confirmed Ambassador Holgate in December to be our representative to the other U.N. organizations based in Vienna?

That is a good question and it has no good answer and we did not hear that answer on floor of the U.S. Senate just 5 minutes ago, when the Senator from Florida objected. We didn't hear a word about their objections.

I will tell you what, they are creating very risky conditions for all Americans when they deny our country a seat at the table at the International Atomic Energy Agency at this time in history.

I was the same age as the pages on the floor today when the Cuban missile crisis cast a shadow over our Nation. I remember what that was like.

We are slipping day by day into a situation where we could be confronted with similar conditions, and the least that we should be able to say is we tried, we really tried, to avoid that nuclear catastrophe. And the minimum that we should do is have an ambassador who is at the table who is talking

to all of our allies and the rest of the world about these issues right now.

Ukraine and the whole of Europe averted disaster when a Russian munition fell just short of Ukraine's nuclear reactors just a couple of weeks ago. We may not be so lucky the next time if Russian forces move on the country's other facilities with the same reckless abandon.

What possible benefit is derived from keeping our ambassadorial post at the IAEA unfilled at a time like this? We make nuclear safety and nuclear security a partisan issue at our own peril and at the peril of every family in our country as well as Europe.

It is just absolutely irresponsible, for unrelated reasons, to deny our country that kind of protection right now.

So we are going to keep coming back with this, and the reason we are is that we can see a continued escalation. We can see, in Putin's own words, reckless intent. And it is not for us to judge whether he is sincere or not in terms of his consideration of the use of nuclear weapons or his lack of full consideration of what the consequences are of having armed attacks on nuclear powerplant facilities all over Ukraine.

We can't get inside of his brain, but the least we can do is have someone go to the table from America, someone who has dedicated her life—Ambassador Holgate—to this work.

That is what happened here on the floor right now. It was a partisan politicization of nuclear proliferation, of nuclear safety, at a time where we are seeing a peril that we have not seen in 50 years in the United States or the planet.

All I can tell you is history will not come back and well receive the partisan objection for the completely unrelated reasons for not allowing us to have that kind of representation at the nuclear table at this particular point in time.

I intend to return on this subject, as many times as it takes, so that we can have someone who is there protecting every family in our country.

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

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

Mr. CORNYN. Mr. President, I ask unanimous consent to complete my remarks before the next vote.

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

UKRAINE

Mr. CORNYN. Mr. President, since Vladimir Putin's invasion of Ukraine, we have all been inspired by the courage and leadership of Ukrainian President Volodymyr Zelenskyy.

As Russian troops invaded and brutally attacked his country, President



Zelenskyy did not do as others have done in the past. He didn't run; he didn't hide; and he didn't give in. President Zelenskyy did what every leader hopes to have the courage to do in times of crisis: He stood his ground, spoke out, and rallied the rest of the world to get behind him.

Yesterday, as we all know, Members of Congress had a chance to hear directly from President Zelenskyy.

First, he expressed his gratitude to the United States for the support we have provided so far to his country, but he also issued an urgent plea for more defense articles. He showed us a videotape of devastating photos and videos coming out of Ukraine, demonstrating what the Ukrainian people are being subjected to every day by Putin's cruel and unprovoked war against innocent civilians.

Ukrainian troops need more arms. They need anti-tank capabilities, and they need additional aircraft. As President Zelenskyy put it, the destiny of Ukraine is being decided now, as we speak.

I believe we have a moral obligation—not necessarily a treaty obligation since Ukraine isn't part of NATO, but we have a moral obligation as the leader of the free world—and I am talking about the United States as a whole—to support Ukraine and help them defend their sovereignty and their people.

For example, Poland, a member of NATO, offered to transfer an entire fleet of MiG-29 fighters to the United States for delivery to Ukraine. Ukrainian forces already know how to fly those Russian aircraft, and President Zelenskyy assured us that they are desperately needed, but the Biden administration rejected the offer out of fear that it might provoke Mr. Putin or, in terms of war, might escalate the conflict.

Winston Churchill, another great wartime leader, aptly said:

An appeaser is one who feeds a crocodile, hoping it will eat him last.

This cannot be the policy of the United States. We cannot appease Vladimir Putin, and we can't afford to be timid in the face of the greatest threat to world peace since World War II.

Here on the Senate floor, several weeks ago, I shared a maxim of another Russian leader, Vladimir Lenin, the leader of the Soviet Union, of course, at the time. This is something I would suspect that Mr. Putin agrees with.

Lenin said:

You probe with bayonets. If you find mush, you push. If you find steel, you withdraw.

In short, if people like Vladimir Lenin and Vladimir Putin are met with weakness, they are going to keep coming; if they are met with strength, they may withdraw.

President Putin clearly subscribes to this world view. He doesn't respect weakness. In fact, weakness is a provocation; it encourages him. A weak opponent is Putin's greatest desire. Presi-

dent Biden, unfortunately, in not acting more forcefully and taking the initiative as only leaders can do, is playing into his hand.

The Biden administration has time and time again eventually come around to doing the right thing when it comes to arming the Ukrainians. Unfortunately, it has only been after there has been a public outcry or more pressure from Congress or President Zelenskyy.

Last year, President Biden waived sanctions on the Nord Stream 2 Pipeline. This, of course, is a natural gas pipeline that goes from Russia to Germany. One of the things, even now, the Germans have recognized is their vulnerability to the monopoly that Russia has when it comes to providing oil and gas to Europe.

As Russia built up troops on Ukraine's border, President Biden suggested that some attacks on Ukrainian sovereignty would be "minor intrusions" and perhaps disregarded by the United States, he implied.

President Biden ignored the advice of virtually all of his advisers and missed the window to impose paralyzing sanctions on Russia before the invasion, and now the administration continues to refuse to facilitate the transfer of these Polish fighter jets.

In standard fashion, the administration seems to be a little confused by this crisis—afraid to say yes and too afraid to say no.

I am reminded of President Obama's statement of "leading from behind," which appears to be an approach embraced now by President Biden.

Strong words are important, but they don't defend against rockets or cruise missiles. Sanctions are important, but they won't take out a Russian tank. Humanitarian aid is important, but only if it is delivered on a timely basis and when it is needed. And waiting and seeing what will develop next and then responding after the fact rather than anticipating the need is not particularly effective.

As I said, I believe we have a moral obligation to stand with Ukraine and help its people defend their way of life. We should not be in a position of telling President Zelenskyy: Yes, you have asked us for these defensive arms. You have asked us for these airplanes. We are going to give you just what we think you need.

I don't think that should be our position. We ought to ask President Zelenskyy what he needs and provide it forthwith.

We want to help Ukraine defeat Russian forces and repel them from their territory entirely, not just extend the length of this terrible war. The most effective way to do that is to supply Ukraine with the assets they need as quickly as possible.

To start with, the Biden administration should reevaluate its decision to reject Poland's aircraft offer. These airplanes are needed for Ukraine to maintain air superiority over Russian forces, and they need them now and

not at some distant date in the future. And we need to continue to find ways to put American weaponry into the hands of Ukrainian soldiers.

Back in World War II, the United States was known as the arsenal of democracy. Again, in a bill that I have introduced called the Ukraine Democracy Defense Lend-Lease Act, we can do that again. I am proud to have worked with a group of bipartisan Senators, including Senators CARDIN, WICKER, and SHAHEEN, to produce this legislation.

This legislation authorizes the President to enter into lend-lease agreements like we did in World War II, which probably saved Britain from domination by Nazi Germany. We can do this again by providing Ukrainian forces with the weapons they need to defend their country.

This legislation was included in various packages designed to support Ukraine, but, unfortunately, those packages never made their way to the Senate floor.

There is broad bipartisan support for this lend-lease provision, and it will give the United States the ability to send the exact type of military support Ukraine needs without a lot of redtape or unnecessary delays.

Our support for Ukraine is not a provocation for Putin. It is a necessary show of strength, and it is a deterrence.

As we search for additional ways to support Ukraine, it was great to hear from President Zelenskyy. As I said earlier, his bravery and leadership have galvanized the world and have inspired all of us to take action. And I hope his plea for additional aid will persuade President Biden to act with even greater dispatch.

This weekend, I will be traveling with a number of our colleagues to Poland to visit our friends and allies on the ground and to see for ourselves the sort of humanitarian crisis that Putin's invasion of Ukraine has created.

Poland, to its credit, has welcomed thousands of refugees—hundreds of thousands—and continues to deal with the Russian aggression along its borders.

I look forward to this opportunity to visit both Poland and Germany and learning more from our partners in Europe and eager to bring back their input to the Senate for further urgent action.

I yield the floor.

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER (Mr. SCHATZ). Under the previous order, the Senate will resume consideration of the Corley nomination, which the clerk will report.

The bill clerk read the nomination of Jacqueline Scott Corley, of California, to be United States District Judge for the Northern District of California.