

flexible. It is not meant to set policy, which would require notice and comment by those who would be regulated pursuant to that regulatory process.

But, apparently, Chairman Gensler would rather politicize accounting standards to achieve policy goals in the banking industry—an industry, I would like to remind him, he does not regulate—rather than conduct a transparent policymaking process.

Maybe it is because Chairman Gensler knows that putting customer assets on the balance sheet is bad policy that would not garner enough support to finalize a rule. Maybe it is because he is committed to an ill-informed and unworkable fight against the digital asset industry at any cost.

Unfortunately, SAB 121 does nothing to protect consumers—nothing to protect consumers. It hurts them.

I hope that all of my colleagues will recognize this and join me in voting in support of H.J. Res. 109.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the joint resolution is considered read a third time.

The joint resolution was ordered to a third reading and was read the third time.

VOTE ON H.J. RES. 109

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

Ms. LUMMIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey, (Mr. MENENDEZ) is necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Missouri (Mr. HAWLEY).

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—60

Barrasso	Graham	Ricketts
Blackburn	Grassley	Risch
Booker	Hagerty	Romney
Boozman	Hickenlooper	Rosen
Braun	Hoeven	Rounds
Britt	Hyde-Smith	Rubio
Budd	Johnson	Schmitt
Capito	Kelly	Schumer
Casey	Kennedy	Scott (FL)
Cassidy	Lankford	Scott (SC)
Collins	Lee	Sinema
Cornyn	Lujan	Sullivan
Cotton	Lummis	Tester
Cramer	Marshall	Thune
Crapo	McConnell	Tillis
Cruz	Moran	Tuberville
Daines	Mullin	Vance
Ernst	Murkowski	Wicker
Fischer	Paul	Wyden
Gillibrand	Peters	Young

NAYS—38

Baldwin	Butler	Coons
Bennet	Cantwell	Cortez Masto
Blumenthal	Cardin	Duckworth
Brown	Carper	Durbin

Fetterman	Merkley	Smith
Hassan	Murphy	Stabenow
Heinrich	Murray	Van Hollen
Hirono	Ossoff	Warner
Kaine	Padilla	Warnock
King	Reed	Warren
Klobuchar	Sanders	Welch
Manchin	Schatz	Whitehouse
Markey	Shaheen	

NOT VOTING—2

Hawley	Menendez
--------	----------

The joint resolution (H.J. Res. 109) was passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER (Mr. KING). Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of **Camela C. Theeler**, of South Dakota, to be United States District Judge for the District of South Dakota.

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided.

NOMINATION OF CAMELA C. THEELER

Mr. DURBIN. Mr. President, today, the Senate will vote to confirm Judge Camela Theeler to the U.S. District Court for District of South Dakota.

Judge Theeler's deep ties to South Dakota and her experience in the courtroom—as a litigator and on the bench—have prepared her to serve as a U.S. District Judge. After receiving her B.A. and J.D. from the University of South Dakota, Judge Theeler began her legal career in private practice before clerking for the judges of the First Judicial Circuit of the South Dakota Unified Judicial System. Thereafter, Judge Theeler returned to private practice, working on a range of cases, including personal injury/worker's compensation, business litigation, employment law, and criminal defense work. From 2012 to 2018, Judge Theeler served as an assistant U.S. attorney in the U.S. Attorney's Office for the District of South Dakota, becoming deputy civil chief in 2016.

Over the course of her legal career, Judge Theeler tried eight cases to verdict, judgment, or final decision. Since 2018, she has served as a circuit court judge for the State of South Dakota, located in the Second Judicial District. Judge Theeler has presided over 57 trials that have gone to verdict or judgment.

Judge Theeler has the strong support from her home State Senators, Mr. THUNE and Mr. ROUNDS. In addition, she was unanimously rated “well qualified” by the American Bar Association.

I urge my colleagues to support Judge Theeler's nomination.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise today, along with Senator ROUNDS, in support of the nomination of a distin-

guished South Dakotan, Judge Camela Theeler, who has been nominated to fill a vacancy at the U.S. District Court for the District of South Dakota.

Judge Theeler is a South Dakota native and graduate of the University of South Dakota School of Law. She has been a judge for the South Dakota Second Judicial Circuit since 2018.

Prior to her current role, she served as an assistant U.S. attorney in the U.S. Attorney's Office for the District of South Dakota from 2012 to 2018; and before that, she spent time at two South Dakota law firms.

When she is not trying cases, she often welcomes students to the courthouse, where she gives tours and conducts mock trials to help teach them about the legal system.

I believe that Judge Theeler's experience and record will make her an excellent district judge. And, most importantly, I believe that she has the character and impartiality to serve a lifetime appointment on the Federal bench.

I am proud to support her nomination, and I encourage my colleagues to confirm her as a judge for the U.S. district court of South Dakota.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ROUNDS. Mr. President, I am pleased to join Senator THUNE today in supporting the confirmation of Judge Cammy Theeler.

Ms. Theeler is a native of my home community, Pierre, SD, and has an impressive list of career experiences, spanning from the U.S. Attorney's Office to teaching at Dakota Wesleyan University, to her work now as a State circuit court judge.

It is because of her commitment to upholding the law, along with her commitment to public service, that she received the South Dakota Young Lawyer of the Year award in 2009.

She will undoubtedly exercise judicial restraint and apply the law as written.

I also want to congratulate Eric Schulte on his Senate confirmation yesterday for the U.S. District of South Dakota. He is a well-qualified attorney who will serve Americans well as a district judge.

I encourage my colleagues to join today in supporting Judge Cammy Theeler for U.S. district judge for the District of South Dakota.

VOTE ON THEELER NOMINATION

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the Theeler nomination?

Mr. THUNE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Illinois (Ms. DUCKWORTH),

the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Idaho (Mr. CRAPO), the Senator from Missouri (Mr. HAWLEY), and the Senator from Louisiana (Mr. KENNEDY).

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 170 Ex.]

YEAS—90

Baldwin	Graham	Paul
Barrasso	Grassley	Peters
Bennet	Hagerty	Reed
Blackburn	Hassan	Ricketts
Blumenthal	Heinrich	Risch
Booker	Hickenlooper	Romney
Boozman	Hirono	Rosen
Braun	Hoeven	Rounds
Brown	Hyde-Smith	Rubio
Budd	Johnson	Schatz
Butler	Kaine	Schumer
Cantwell	Kelly	Scott (FL)
Capito	King	Scott (SC)
Cardin	Klobuchar	Shaheen
Carper	Lankford	Sinema
Casey	Lee	Smith
Cassidy	Lujan	Stabenow
Collins	Lummis	Tester
Coons	Manchin	Thune
Cornyn	Markey	Tillis
Cortez Masto	Marshall	Van Hollen
Cotton	McConnell	Vance
Cramer	Merkley	Warner
Cruz	Moran	Warnock
Daines	Mullin	Warren
Durbin	Murkowski	Welch
Ernst	Murphy	Whitehouse
Fetterman	Murray	Wicker
Fischer	Ossoff	Wyden
Gillibrand	Padilla	Young

NAYS—4

Britt	Sullivan
Schmitt	Tuberville

NOT VOTING—6

Crapo	Hawley	Menendez
Duckworth	Kennedy	Sanders

The nomination was confirmed.

The PRESIDING OFFICER (Mr. PETERS). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Seth Robert Aframe, of New Hampshire, to be United States Circuit Judge for the First Circuit.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. HAGERTY. Mr. President, I ask unanimous consent for Senator SCHATZ and I to conclude our remarks prior to the vote.

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

UNANIMOUS CONSENT REQUEST—H.R. 7109

Mr. HAGERTY. Mr. President, last week, the House of Representatives passed the Equal Representation Act. This commonsense bill would require that only U.S. citizens are counted for the purposes of allotting congressional

districts and electoral votes. This makes sense. In order for every American's vote to have equal weight, only legal voters should be counted in apportioning voting power.

On the other hand, the current method of counting illegal aliens in allocating Americans' voting power dilutes the votes of some Americans. It also serves as a perverse incentive for open borders and sanctuary cities because resettling illegal aliens increases the relative political power of the States and the voters that do so.

What was once called a conspiracy theory turned out to be an objective fact that Democrats now acknowledge. Migrants here illegally are being counted in the census, and they are counted for determining electoral college votes and congressional seats. Commerce Secretary Raimondo confirmed this yesterday when I asked her in a committee hearing.

It is impossible to dispute that this policy increases the voting power of districts and States that resettle more illegal aliens. In fact, some Democrats have taken it a step further, calling for more illegal immigration to increase their power. Just this year, video surfaced of a U.S. Representative from New York—her name is YVETTE CLARKE—who said, when asked about illegal immigration, "I need more people in my district just for redistricting purposes." Yes, that is what she said. She said it quite out loud. She represents the same district where James Madison High School is located. You may recall that last fall, last winter, James Madison High School was the school where the students were told to go home and study by Zoom so their school could be used to house illegal aliens. What Congresswoman CLARKE means is that Americans are fleeing blue cities and States en masse because of failing government—and congressional seats are allocated based on population—so if you are losing population, you either have to backfill it or lose congressional seats. That is where the illegal aliens come in.

This Congresswoman's statement helps explain why President Biden and Democrats are allowing recordbreaking illegal immigration. It is to preserve their political power. Since President Biden took office alone, over 10 million illegal aliens have entered our country. That could amount to more than a dozen congressional seats.

This bill is simple. It would simply require that the Census Bureau include a citizenship question to provide a basic understanding of the U.S. population, which is the purpose of the census, and it would allow for delineation between citizens and noncitizens for apportionment purposes. My bill would count only citizens for purposes of congressional and electoral college apportionment. In other words, it would count only citizens for determining citizens' voting power. That way, the power of each American's vote doesn't depend on how many illegal aliens are in their area.

The Equal Representation Act will ensure that the weight of every American's vote is equal, it will restore the one person, one vote principle, and it will certainly end the perverse incentive under which illegal immigration increases political power.

Mr. President, I ask unanimous consent that as in legislative session, notwithstanding rule XX, the Senate proceed to the immediate consideration of Calendar No. 386, H.R. 7109. I further ask that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Hawaii.

Mr. SCHATZ. Mr. President, reserving the right to object, a couple of points. The first point is actually the main point, which is that we had the toughest bipartisan bill on border security in generations on this floor, and when Donald Trump found out how tough it was and how effective it was going to be, he told Senate Republicans to kill it, and that is what they did. So spare me the crocodile tears about the situation at the border. We had the opportunity to fix that, and Donald Trump explicitly said: Don't pass this. Blame me. Blame me.

No. 2, my good friend Senator HAGERTY, who feels very passionately about this—his quibble is with the Constitution. The Constitution provides that all persons in the United States are counted—all persons. It says nothing about their citizenship status. So if you have a problem with the way the census is conducted, you have to amend the Constitution of the United States—not the law, not the statutory laws of the United States, but the Constitution of the United States.

I have lost count of the number of times Republicans have tried and failed to add citizenship questions to the census. We have to see this for what it is—an attempt to reduce the count in immigrant communities.

If that sounds like sort of a rhetorical flourish, a little bit too much, let me remind you that it was only a few years ago that the Supreme Court ruled against adding this question. They ruled against it. Why? It is because the real reason they wanted to add it was from a conservative effort who thought it would "be advantageous to Republicans and non-Hispanic Whites."

"[B]e advantageous to Republicans and non-Hispanic Whites."

They wanted to ask people the citizenship question not in a longer census questionnaire, not as part of their annual data gathering, but the first question out of the gate to scare people from interacting with the Federal Government because—listen, someone knocks on your door from the Federal Government, and the first question is "Are you a citizen?" You will decline to participate if you have friends or families or cousins or neighbors who may have mixed-citizenship status.