

to uphold the Senate's constitutional duty to provide advice and consent on the President's nominations. I said Democrats will be ready to work with Republicans in a bipartisan way on the nominations process and give each nominee the same fair and thorough consideration that previous nominees of both parties have received.

We should hold hearings with the nominees and markups in committees. And Senators should be given the chance to vote on nominees here on the Senate floor.

The American people deserve public servants who put the needs of the country ahead of the political needs of any individual, Republican or Democrat. The American people deserve public servants whose judgment, character, and experience inspires confidence and reflects our Nation's highest ideals.

Most of all, the American people deserve public servants who will uphold their oaths to protect and defend the Constitution of the United States.

The best mechanism for ensuring the President appoints qualified, capable, and ethical officials is precisely the advice and consent power of the Senate. And it will be the responsibility of the incoming majority and the incoming majority leader to ensure that the authority of the Senate is carried out and preserved.

I urge incoming Leader THUNE and Senate Republicans to work with Democrats to protect the Senate's authorities under the Constitution.

BUSINESS BEFORE THE SENATE

Madam President, now, on Senate business, we are at the beginning of what will be a very busy December. There is a lot the Senate has to do, both on the nominations and the legislative side and not a lot of time to do them.

Let me begin with the nominations. We are picking up where we left off before Thanksgiving, confirming more of the President's nominees to the bench and to Federal Agencies of great importance to the American people.

Later this afternoon, the Senate will vote to confirm the nomination of Anne Hwang to be District Judge for the Central District of California. As the week progresses, Members should be advised we aim to hold additional confirmation votes on the nominees that we invoked cloture on before the Thanksgiving break. We hope to move to them as soon as possible.

On the legislative side, the Senate also has a handful of priorities we must deal with before the year is out: the annual Defense authorization bill—the NDAA—and the legislation to prevent a shutdown right before Christmas.

On government funding, both sides are making progress negotiating on a bill that can pass the House and Senate with bipartisan support. We need to keep divisive and unnecessary provisions out of any government funding extension or else it will get harder to pass a CR in time.

For now, I am pleased negotiations are on the right track, and I thank the

appropriators in both Chambers for their good work.

Now on the NDAA, I am hopeful that we are close to beginning the process of moving the bipartisan bill through both Chambers. The NDAA has been passed without fail for decades with the cooperation from both sides, and I hope this year is no exception. Few priorities matter more than providing for our national defense and taking care of our troops in uniform and their families.

Finally, Senate Democrats will keep pushing to finish work on a disaster aid package, to replenish the many relief programs that are dangerously low on resources. The President sent us his request last month and spelled out in very clear detail the disastrous consequences should Congress fail to act. I remain hopeful we can get a disaster package done soon. National disasters affect red States and blue States and purple States and everything in between.

We have a long tradition in this Chamber of coming together when it comes to disaster aid, with very few exceptions. We should come together again at the end of the year to get disaster aid done or we may not be ready to respond the next time Mother Nature wreaks havoc on our communities.

UPSTATE NEW YORK

Madam President, finally, on snowfall in Western New York and upstate, first, let me say my team is monitoring the heavy lake effect snowfall that has pummeled Western New York just as New Yorkers were driving home from Thanksgiving. There are numerous reports of people left stranded in their cars, facing terrifying conditions and utter chaos on the road. In at least one instance, first responders saved the lives of one couple trapped on the road in the middle of the snowstorm.

The Governor has issued a state of emergency for a number of local counties, and I urge everyone impacted by the snowfall to follow local guidelines and stay off the road as much as they can. There is more heavy snowfall on the way.

But amidst all the snow, there was one happy element. Last night, all of America got to witness the beauty of Buffalo on national television, seeing the Buffalo Bills clinch the AFC East championship amidst a deluge of snow. What happened in Orchard Park was out of a storybook—a snow globe game for the ages.

Despite frigid temperatures, mounds of snow, and a tough opponent, the Buffalo Bills came out with a huge 35-to-10 victory over the 49ers. It was an amazing game to watch. I watched the whole thing. Josh Allen did it all. He set the franchise record for the most total touchdowns and became the first quarterback ever to throw a touchdown, run for a touchdown, and catch a touchdown in the same game—an unthinkable hat trick. How impressive is that?

Of course, as always, the Bills Mafia was out in full force supporting the

team, shoveling snow to get to their seats, and cheering in the harshest conditions. They continue to show why the Bills Mafia is the most passionate and most loyal fan base in the league.

Now, with their fifth straight division title, it is clear the Buffalo Bills are truly the Beast of the East. So I only have two words to say: "Go Bills!"

I yield the floor.

I suggest the absence of a quorum.

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

The assistant bill 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.

BUSINESS BEFORE THE SENATE

Mr. MCCONNELL. Madam President, well, the Senate has 3 weeks to complete some of the most important business of the year, and at this late hour, we will have to act on legislation that comes to us over from the House. But let's be absolutely clear: December drama is not the way to demonstrate we are serious about our most basic governing responsibilities.

With the exception of urgent supplemental assistance to States and communities hit hard by natural disasters in recent months, essential and predictable annual assignments like the NDAA and government funding are now well overdue.

Our colleagues on the Armed Services Committee completed their work on the NDAA back in June. They conducted extensive hearings, considered a wide array of amendments, and, thanks to the work of Ranking Member WICKER, secured an increase to top-line authorization, and they did it with bipartisan support. They handed the legislation off to the Democratic leader with months to spare.

Similarly, over in the Appropriations Committee, they worked diligently to present full-year funding bills ahead of the start of the fiscal year. I am particularly proud of the work of committee Republicans, under Vice Chair COLLINS' leadership, to secure higher top-line funding for national defense.

The most important power in the Senate is the power to set our agenda. Only the majority leader holds that power.

Last year, the majority leader said publicly that "the United States is ready to compete vigorously with the PRC." The overwhelming consensus of U.S. national security experts contradicts that view.

But even if we were once ready to compete and deter aggression from the adversaries who are working together to threaten us, letting critical national security legislation collect dust for months while the Senate rubberstamps radical nominees is one heck of a way to sustain that elusive readiness or project American resolve.

The full Senate was denied a chance to work its will on the NDAA. As a result, the ranking member of the Armed Services Committee was forced to negotiate against the House's much lower top line for defense spending from a much weaker position.

The same is true for Defense appropriations and Vice Chair COLLINS' efforts.

As Ranking Member WICKER has pointed out repeatedly, we have got a lot of work to do to repair America's military and rebuild our defense industrial base, and finishing urgent business in December certainly is no cause for celebration. It will be just the end of an utterly avoidable delay.

JUDICIAL NOMINATIONS

Madam President, now, on another matter, just before Thanksgiving, the Senate reached a deal on judicial nominees. Republicans would forego our available procedural roadblocks on nominations for district courts, which had the votes to be confirmed. In exchange, the Democratic leader wouldn't bring any of the remaining nominations to circuit courts to the floor because they don't have the votes to be confirmed.

As a result, President Biden is getting around a dozen more district judges, and the next President will get four more circuits to fill. At least, I expect he will.

We have already seen two partisan Democrat district judges "unretire" after the American people voted to fire Democrats last month. This is noteworthy. Looking to our history, only two judges have ever—ever—unretired after a Presidential election, one Democrat in 2004 and one Republican in 2009.

But now, in just a matter of weeks, Democrats have already met that all-time record. It is hard to conclude that this is anything other than open partisanship. They rolled the dice that a Democrat could replace them, and now he won't. They are changing their plans to keep a Republican from doing it.

It is a brazen admission, and the incoming administration would be wise to explore all available recusal options with these judges because it is clear now that they have a political finger on the scale. This sort of partisan behavior undermines the integrity of the judiciary. It exposes bold Democratic blue where there should only be black robes.

But it would be especially alarming if either of the two circuit judges whose announced retirements created these vacancies currently pending before the Senate—in Tennessee and in North Carolina—were actually to follow suit. Never—never before—has a circuit judge unretired after a Presidential election. It is literally unprecedented, and to create such precedent would fly in the face of a rare bipartisan compromise on the disposition of these vacancies.

It was no surprise to hear the New York Times bemoan the deal, but its

editorial didn't doubt that these vacancies now properly belong to the next President.

To borrow from President Obama, "elections have consequences." But these consequences are for the political branches of government. For sitting judges to change their announced retirement plans because of the Presidential election results or the Senate Executive Calendar puts them three ZIP Codes away from their proper judicial role.

If these circuit judges unretire because they don't like who won the election, I can only assume they will face significant, significant ethics complaints based on canons 2 and 5 of the Code of Conduct for U.S. Judges, followed by serial recusal demands from the Department of Justice. And they will have earned it. As I have repeatedly warned the judiciary in other matters, if you play political games, expect political prizes.

So let's hope these judges do the right thing and enjoy their well-earned retirements and leave the politics to the political branches.

We have just demonstrated that, even on an issue as contentious as judicial nominations, both sides can still come together for a good deal.

The ACTING PRESIDENT pro tempore. The senior Senator from Illinois.

Mr. DURBIN. Madam President, as chairman of the Senate Judiciary Committee, the filling of judicial vacancies has been the focal point of my political attention now for 4 years. There are roughly 800 to 900 Federal judges at the district court level—the lower court level—and the circuit court level and then, of course, 9 on the Supreme Court.

Filling those vacancies is part of our responsibility. People decide to retire, they pass away, for various reasons they leave the bench, and we need to make sure the courts still have people to do their professional job.

I listened carefully to my colleague from Kentucky explain his concerns about the filling of four circuit court vacancies and the possibility—and I don't know with any certainty, but the possibility—that two of those four judges have decided not to retire but to stay on the bench, and he raises a question about whether that is fair.

Well, I would like to call the Senate's attention to the fact that there was a moment in time when we were shocked to learn that Supreme Court Justice Antonin Scalia had died while on a hunting trip. I believe it was in the month of January or February. I don't have notes on it here, but I believe it was January or February of that year, and it was the last year of President Obama's Presidency, in his second term. And so the President—President Obama—said he was going to set out to fill the vacancy created by the death of Antonin Scalia. And he was proposing his nominee, Merrick Garland, a judge at the time who is now our Attorney General.

And the decision was made, almost instantly, by the Senator from Kentucky—the same Senator who just talked about delaying in filling vacancies—the decision was made by him not to fill the Supreme Court vacancy. This was in February of the last year of Obama's Presidency. And, in fact, it wasn't filled until the new President—in this case, Donald Trump—came in, in his first term.

Senator MCCONNELL instructed his Republican Senators not to meet with Merrick Garland, President Obama's nominee, to wait almost an entire calendar year to fill that vacancy; and he succeeded in that effort, so that Donald Trump was able to fill that vacancy and not the situation where President Obama would have that option.

So when I hear the Senator from Kentucky come to the floor and talk about whether there is any gamesmanship going on, I don't know, but I will tell you we saw it at the highest possible level in filling the vacancy in the Supreme Court when Antonin Scalia passed away.

I think what the American people are looking for is fair play. That is not unreasonable. And they are looking for qualified nominees. I am happy to report that well over 50 percent of the nominees that have gone through under the Biden administration for the Federal courts have been bipartisan—it is 86 percent, a dramatic majority that have been bipartisan.

And every single Federal nominee from President Biden has been judged "well qualified" or better by the American Bar Association. That was not the case under the previous administration of President Trump, and it makes a difference whether a person has a quality background and the integrity to serve on the court.

So I am proud of what we have achieved, and I hope we can close the year with the understanding that even more will be filling the vacancies on the bench.

FOR-PROFIT COLLEGES

Madam President, my major reason for coming to the floor, in addition to that important topic, is to discuss an issue which I have been bringing to the attention of the Senate for some time: predatory higher education schools that are deceiving and swindling students and burying them in mountains of debt.

Many of the students in high school, looking for a college, don't realize that there are several different categories of schools that are available. Some of their families have never had a college experience. For the young people, it is the first one in the family to try it. And they are deluged with all sorts of brochures and advertising for schools.

The ones who send the most advertising and even show up on television and other places are the for-profit schools. These are schools that are not public and private universities, not-for-profit operations. They are for profit.