



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 115<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 163

WASHINGTON, TUESDAY, JANUARY 17, 2017

No. 10

## House of Representatives

The House met at noon and was called to order by the Speaker pro tempore (Mr. SIMPSON).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,  
January 17, 2017.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

PAUL D. RYAN,  
*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Patrick J. Conroy, offered the following prayer: Gracious and merciful God, we give You thanks for giving us another day.

In this Chamber where the people's House gathers, we pause to offer You gratitude for the gift of this good land on which we live and for this great Nation which You have inspired in developing over so many years.

Our Nation prepares for the ritual transfer of power, celebrated with the inauguration of our 45th President. Bless us all this week. Give to us and all people a vivid sense of Your presence, that we may learn to understand each other, to respect each other, to work with each other, to live with each other, and to do good to each other. So shall we make our Nation great in goodness and good in its greatness.

May all that is done this day be for Your greater honor and glory.  
Amen.

### THE JOURNAL

The SPEAKER pro tempore. Pursuant to section 3(a) of House Resolution 40, the Journal of the last day's proceedings is approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

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

### APPOINTMENT OF MEMBER TO BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The SPEAKER pro tempore. Pursuant to sections 5580 and 5581 of the revised statutes (20 U.S.C. 42-43), and the order of the House of January 3, 2017, of the following Member on the part of the House to the Board of Regents of the Smithsonian Institution:

Ms. MATSUI, California

### APPOINTMENT OF MEMBER TO BOARD OF TRUSTEES OF THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The SPEAKER pro tempore. The Chair announces the Speaker's appointment, pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), amended by Public Law 107-117, and the order of the House of January 3, 2017, of the following Member on the part of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts:

Mr. KENNEDY, Massachusetts

### APPOINTMENT OF MEMBERS TO JOHN F. KENNEDY CENTENNIAL COMMISSION

The SPEAKER pro tempore. The Chair announces the Speaker's appointment, pursuant to section 4(a) of the John F. Kennedy Centennial Commission Act (Public Law 114-215), and

the order of the House of January 3, 2017, of the following Members on the part of the House to the John F. Kennedy Centennial Commission:

Mr. MCCARTHY, California  
Ms. STEFANIK, New York

### REAPPOINTMENT OF INDIVIDUAL TO COMMISSION ON CIVIL RIGHTS

The SPEAKER pro tempore. The Chair announces the Speaker's reappointment, pursuant to section 2 of the Civil Rights Commission Amendments Act of 1994 (42 U.S.C. 1975), and the order of the House of January 3, 2017, of the following individual on the part of the House to the Commission on Civil Rights for a term expiring December 15, 2022:

Upon the recommendation of the minority leader:

Mr. Michael Yaki, San Francisco, California

### ADJOURNMENT

The SPEAKER pro tempore. Pursuant to section 3(b) of House Resolution 40, the House stands adjourned until 10 a.m. on Friday, January 20, 2017.

Thereupon (at 12 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Friday, January 20, 2017, at 10 a.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

208. A letter from the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting the Department's 2015 Progress Report on Understanding the Long-Term Health Effects of Living Organ Donation, pursuant to 42 U.S.C. 273b, Public Law 110-144; to the Committee on Energy and Commerce.

209. A letter from the Secretary, Department of the Treasury, transmitting a six-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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month periodic report on the national emergency with respect to transnational criminal organizations that was declared in Executive Order 13581 of July 24, 2011, pursuant to 50 U.S.C. 1641(c); Public Law 94-412, Sec. 401(c); (90 Stat. 1257) and 50 U.S.C. 1703(c); Public Law 95-223, Sec. 204(c); (91 Stat. 1627); to the Committee on Foreign Affairs.

210. A communication from the President of the United States, transmitting a letter designating Rhonda Schnare Schmidlein as Chair of the United States International Trade Commission, pursuant to 19 U.S.C. 1330(c)(1); June 17, 1930, ch. 497, Sec. 330(c)(1) (as amended by Public Law 95-106, Sec. 1); (91 Stat. 867) (H. Doc. No. 115-7); to the Committee on Ways and Means and ordered to be printed.

211. A communication from the President of the United States, transmitting notification that the national emergency with respect to Libya, that was declared in Executive Order 13566 of February 25, 2011, is to continue in effect beyond February 25, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-8); to the Committee on Foreign Affairs and ordered to be printed.

212. A communication from the President of the United States, transmitting notification that the national emergency with respect to Iran, originally declared on March 15, 1995, by Executive Order 12957 is to continue in effect beyond March 15, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-9); to the Committee on Foreign Affairs and ordered to be printed.

213. A communication from the President of the United States, transmitting notification that the national emergency regarding terrorists who threaten to disrupt the Middle East peace process, that was declared in Executive Order 12947 of January 23, 1995, is to continue in effect beyond January 23, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-10); to the Committee on Foreign Affairs and ordered to be printed.

214. A communication from the President of the United States, transmitting notification that the national emergency with respect to the situation in Venezuela that was declared in Executive Order 13692 of March 8, 2015, is to continue in effect beyond March 8, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-11); to the Committee on Foreign Affairs and ordered to be printed.

215. A communication from the President of the United States, transmitting notification that the national emergency with respect to the actions and policies of persons that undermine democratic processes and institutions in Ukraine, that was declared in Executive Order 13660 of March 6, 2014, is to continue in effect beyond March 6, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-12); to the Committee on Foreign Affairs and ordered to be printed.

216. A communication from the President of the United States, transmitting notification that the national emergency declared in Executive Order 13288 of March 6, 2003, with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, is to continue in effect beyond March 6, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-13); to the Committee on Foreign Affairs and ordered to be printed.

217. A communication from the President of the United States, transmitting notification that the national emergency with respect to Cuba that was declared on March 1,

1996, in Proclamation 6867, as amended by Proclamation 7757 on February 26, 2004, and Proclamation 9398 on February 25, 2016, is to continue in effect beyond February 25, 2017, pursuant to 50 U.S.C. 1622(d); Public Law 94-412, Sec. 202(d); (90 Stat. 1257) (H. Doc. No. 115-14); to the Committee on Foreign Affairs and ordered to be printed.

218. A letter from the Administrator, General Services Administration, transmitting notification of the adjustment of 2017 mileage reimbursement rates for Federal employees who use privately owned vehicles (POVs), including privately owned automobiles, motorcycles, and airplanes, while on official travel, pursuant to 5 U.S.C. 5707(b)(1)(A); Public Law 89-554 (as added by Public Law 113-291, Sec. 915(b)(1)); (128 Stat. 3476); to the Committee on Oversight and Government Reform.

219. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's Semiannual Report of the Inspector General and the Management Response for the period of April 1, 2016, through September 30, 2016, pursuant to Sec. 5, Public Law 95-452, as amended; to the Committee on Oversight and Government Reform.

220. A letter from the Chair, Securities and Exchange Commission, transmitting the Commission's inventories of commercial and inherently governmental activities performed for fiscal years 2014 and 2015, pursuant to 31 U.S.C. 501 note; Public Law 105-270, Sec. 2(c)(1)(A); (112 Stat. 2382); to the Committee on Oversight and Government Reform.

221. A letter from the Attorney General, Department of Justice, transmitting a decision of the United States District Court for the Middle District of Pennsylvania, Michael L. Keyes and Jonathan K. Yox v. Lynch, No. 1:15-cv-457, 2016 WL 3670852 (M.D. Pa. July 11, 2016), pursuant to 28 U.S.C. 530(d)(a)(1); Public Law 107-273, Sec. 202(a); (116 Stat. 1771); to the Committee on the Judiciary.

222. A letter from the Assistant Secretary for Legislation, Department of Health and Human Services, transmitting a report on the activities of the Center for Medicare and Medicaid Innovation, pursuant to 42 U.S.C. 1315a(g); Aug. 14, 1935, ch. 531, title XI, Sec. 1115A(g) (as amended by Public Law 111-148, Sec. 3021(a)); (124 Stat. 394); jointly to the Committees on Energy and Commerce and Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. GOHMERT (for himself, Mr. WEBER of Texas, Mr. BRADY of Texas, Mr. KING of Iowa, Mr. FARENTHOLD, Mr. MCCAUL, Mr. CULBERSON, Mr. YOHIO, Mr. CRAMER, Mr. SHIMKUS, Mrs. BLACK, Mr. SESSIONS, Mr. FRANKS of Arizona, Mr. ADERHOLT, Mr. BURGESS, and Mr. CUELLAR):

H.R. 582. A bill to amend the Communications Act of 1934 to require multi-line telephone systems to have a configuration that permits users to directly initiate a call to 9-1-1 without dialing any additional digit, code, prefix, or post-fix, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. BLACKBURN:

H.R. 583. A bill to direct the Federal Communications Commission to revoke certain changes to the ownership reporting requirements for noncommercial educational broadcast stations; to the Committee on Energy and Commerce.

By Mr. DONOVAN (for himself, Mr. PAYNE, Mr. MCCAUL, and Mr. RATCLIFFE):

H.R. 584. A bill to amend the Homeland Security Act of 2002 to enhance preparedness and response capabilities for cyber attacks, bolster the dissemination of homeland security information related to cyber threats, and for other purposes; to the Committee on Homeland Security.

By Mr. ELLISON (for himself, Mr. CAPUANO, Mr. LYNCH, Mr. MEEKS, Ms. SLAUGHTER, Mr. GRIJALVA, Mr. HECK, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. POCAN, Ms. SCHAKOWSKY, and Mr. SERRANO):

H.R. 585. A bill to amend the Securities Exchange Act of 1934 to prohibit mandatory pre-dispute arbitration agreements, and for other purposes; to the Committee on Financial Services.

By Mr. JODY B. HICE of Georgia (for himself, Mr. ALLEN, Mr. CARTER of Georgia, Mr. COLLINS of Georgia, Mr. CRAWFORD, Mr. DUNCAN of South Carolina, Mr. FARENTHOLD, Mr. FERGUSON, Mr. FRANKS of Arizona, Mr. GRAVES of Georgia, Mr. GROTHMAN, Mr. JOHNSON of Ohio, Mr. LATTA, Mr. LONG, Mr. LOUDERMILK, Mr. OLSON, Mr. ROE of Tennessee, Mr. RUSSELL, Mr. AUSTIN SCOTT of Georgia, Mr. WILSON of South Carolina, and Mr. WOODALL):

H.R. 586. A bill to provide that human life shall be deemed to begin with fertilization; to the Committee on the Judiciary.

By Mr. KENNEDY:

H.R. 587. A bill to amend the Federal Power Act to provide that any inaction by the Federal Energy Regulatory Commission that allows a rate change to go into effect shall be treated as an order by the Commission for purposes of rehearing and court review; to the Committee on Energy and Commerce.

By Mr. PALLONE:

H.R. 588. A bill to direct the Federal Communications Commission to conduct a study on network resiliency during times of emergency, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. GOHMERT:

H.R. 582.

Congress has the power to enact this legislation pursuant to the following:

Under Article I, Section 8 of the U.S. Constitution, "The Congress shall have Power . . . to regulate Commerce . . . among the several States." Telecommunication devices, such as a multi-line telephone system (MLTS), enable the interstate transmission of voice telephony communication. Additionally, MLTS devices enter the stream of commerce as part of an economic enterprise and affect interstate commerce in that they are bought, sold and transported across state lines, and under Article I, Section 8 Congress has the authority to regulate products in

interstate Commerce. See also, *U.S. v. Lopez*, 514 U.S. 549 (1995).

By Mrs. BLACKBURN:

H.R. 583.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 3 of the United States Constitution.

By Mr. DONOVAN:

H.R. 584.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8 of the Constitution of the United States.

By Mr. ELLISON:

H.R. 585.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 1.

By Mr. JODY B. HICE of Georgia:

H.R. 586.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8, Clause 18 that states that Congress shall have the Power “To make all Laws which shall be necessary for carrying into Execution the foregoing Pow-

ers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.”

Additionally, Section 1 of the XIV Amendment states, “. . . nor shall any State deprive any person of life, liberty, or property, without due process of law. . .” and under Section 5 of the XIV Amendment, “The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.”

By Mr. KENNEDY:

H.R. 587.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8—to provide for the general welfare and to regulate commerce among the states.

By Mr. PALLONE:

H.R. 588.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8, clause 3 of the U.S. Constitution. That provision gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

#### ADDITIONAL SPONSORS

Under Clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 38: Mr. ALLEN, Mr. STIVERS, Mr. WOMACK, and Ms. MCSALLY.

H.R. 60: Mr. DEFAZIO.

H.R. 300: Ms. JENKINS of Kansas.

H.R. 331: Mr. COHEN.

H.R. 332: Mr. SIREN and Mr. COHEN.

H.R. 334: Mr. GARAMENDI, Ms. MENG, Ms. JUDY CHU of California, Ms. VELÁZQUEZ, and Ms. ROYBAL-ALLARD.

H.R. 365: Ms. JENKINS of Kansas.

H.R. 460: Mr. LUETKEMEYER.

H.R. 466: Mr. WITTMAN and Mrs. HARTZLER.

H.R. 525: Mr. WILLIAMS.

H. Con. Res. 8: Mr. JEFFRIES.

H. Res. 30: Ms. DEGETTE, Mr. TED LIEU of California, Ms. STEFANIK, Mr. GALLEG0, Miss RICE of New York, Mr. GAETZ, Mr. BEYER, Mr. SERRANO, and Mr. VARGAS.



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PROCEEDINGS AND DEBATES OF THE 115<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 163

WASHINGTON, TUESDAY, JANUARY 17, 2017

No. 10

## Senate

The Senate met at 3 p.m. and was called to order by the President pro tempore (Mr. HATCH).

### PRAYER

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

Let us pray.

God, our shield, look with favor upon us today. Enable us to go from strength to strength, as we strive to live in day-tight compartments. Guide our Senators around the obstacles that hinder them from living for Your glory, as they seek to fulfill Your purpose for their lives in this generation. As they strive to please You, empower them to stand for right and leave the consequences to You. Lord, give them the grace to seek You with their whole hearts, knowing that those who passionately pursue You will find You. May they daily yield themselves to You through prayer and obedience. May they grasp Your firm hand, depending on You to lead them through the darkness to the light.

We pray in Your powerful Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. ISAKSON). The majority leader is recognized.

### COAL MINER RETIREES' HEALTH BENEFITS

Mr. MCCONNELL. Mr. President, in the days since President Obama took

office, too many coal miners have lost their jobs, including well over 10,000 in Kentucky, and more than 25 coal mining companies have filed for bankruptcy. This means that there are fewer active workers available to pay into an expanding retirement pool, leaving health benefits in jeopardy for thousands of retired miners.

Last year, I was proud to be able to secure an extension of these benefits past their year-end expiration date. While I advocated for a longer term solution, we did secure a 4-month plan. I made a commitment at that time to work with my colleagues on a long-term health care solution for these retired miners.

Today, I plan to introduce legislation to protect and permanently extend those benefits for thousands of coal miner retirees and their dependents. Recognizing the damage that has been done over the past 8 years, my legislation also calls on Congress to work with the incoming Trump administration to repeal regulations that are harming the coal industry and to support economic development efforts in coal country.

I highlighted those goals in a letter I sent to President-Elect Trump earlier in the year regarding ways in which I hope we can work together to provide relief to coal country. I look forward to continuing to work with my colleagues and the incoming administration on these important issues.

### REMEMBERING TIM MITCHELL

Mr. MCCONNELL. Mr. President, we were all saddened by the news that Tim Mitchell, a longtime member of the Democratic floor staff, passed away this past weekend after his heart-breaking battle with brain cancer. I know the Democratic leader will have more to say in just a moment, but I wanted to take a moment myself to reflect on Tim's Senate service and express our condolences to his family.

Last September, the former Democratic leader and I had the opportunity to recognize Tim for a remarkable 25 years of Senate service. As we noted then, Tim has long been a critical member of the Senate team who worked tirelessly with his colleagues on both sides to ensure that the floor operated smoothly and efficiently.

Despite his passion for this institution, however, we know that Tim's family always remained his top priority. I know his wife Alicia and his young son Ben know this as well. Our prayers are with them at this immensely difficult time.

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

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

### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

### REMEMBERING TIM MITCHELL

Mr. SCHUMER. Mr. President, we received sad news yesterday. We lost a dear friend to many of us here in the Senate, a wonderful man, Tim Mitchell. He had a long battle with brain cancer. He was a member of the floor staff for many years. He did an amazingly outstanding job.

Every organization has what they call unsung heroes. On the battlefield, they are the soldiers, our infantry men and women. In the automobile plant, they are the assembly line workers. In the hospital, they may be the nurses, the clerical workers, or the folks who clean up the floors late at night. Those organizations can't go on without

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



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these people. They are the heart and soul of these organizations. They do their work quietly but proudly.

If you had to pick someone who personified the unsung hero of this body, it would be Tim. He did his job every day. When you talked to him, you could see the pride and the knowledge he had in doing his job and doing his job well. He will be sorely missed by every Member here today, Democrat and Republican.

Let's take a moment to remember Tim and send our best wishes and prayers to his family and his loved ones.

(Moment of silence.)

Thank you, Mr. President.

#### NOMINEE FOR SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. SCHUMER. Mr. President, I wish to address a troubling report about the President-elect's nominee for Secretary of Health and Human Services that came out last night. We learned that Congressman PRICE bought shares in a medical device manufacturing company just days before introducing legislation in the House that would directly benefit that company.

His legislation wasn't broad legislation. It didn't affect health care in general. It specifically blocked a regulation on medical device companies that do hip and knee implants, including the very business he bought stock in. According to CNN, the company Representative PRICE bought stock in was one of two companies that would have been hardest hit by this new regulation—one of two—and he puts in legislation to repeal it just after buying stock in it.

Again, this is not someone who has Johnson & Johnson stock and then votes to cut Medicare. This is a narrow company that works on hip and knee implants—narrow legislation that deals with undoing some regulations on them. It is really troubling.

These revelations come on top of the report late last year by CQ and the Wall Street Journal that Congressman PRICE had traded stocks in dozens of health care companies valued at hundreds of thousands of dollars during his time in the House as chair on the Budget Committee, when he introduced, sponsored, or cosponsored several pieces of legislation that impacted these companies.

Yesterday's report makes it clear that this isn't just a couple of questionable trades but, rather, a clear and troubling pattern of Congressman PRICE trading stock and using his office to benefit the companies in which he was investing.

Our President-elect claims he wants to drain the swamp, but Congressman PRICE has spent his career filling it up. I have asked the Office of Congressional Ethics to investigate whether or not Congressman PRICE violated the STOCK Act during his time in office before his nomination moves forward in any way.

It may well be that this trade was illegal. This isn't a witch hunt. These are serious and disquieting allegations. The American people deserve to know if their potential Secretary of Health and Human Services violated a law against insider trading in Congress.

The facts here are a narrow company with hip and knee implants and legislation with hip and knee implants coming soon thereafter, after he bought stock—*whoa*. These questions cry out for answers before—let me underline “before”—Nominee PRICE goes before the Senate Finance Committee.

When the public faith in government is as low as it is today, when politics and campaigns are saturated by money, as they are today, when folks feel their representatives are beholden to special interests before their constituents, reports like the one that just came out about Congressman PRICE perpetuate that distrust. They add fuel to the fire.

We need to get to the bottom of these allegations and get to the bottom of them quickly. The only way to restore faith in our government and in our most important democratic institutions is to insist upon transparency and ethical behavior by those in positions of the highest public trust. Until a congressional ethics investigation can be completed, this report and his previous trades cast serious doubt on whether Congressman PRICE is fit to hold the office of Secretary of Health and Human Services.

#### CBO REPORT ON REPEALING THE AFFORDABLE CARE ACT

Mr. SCHUMER. Finally, Mr. President, I wish to turn to the CBO report that just came out today. The Congressional Budget Office today released a new report outlining the consequences of the Republican plan to repeal the Affordable Care Act. Remember, the CBO is a nonpartisan entity. The numbers don't lie. Try as they might, our Republican colleagues can't discredit them.

The numbers are even worse than experts could have imagined. Repealing the Affordable Care Act will mean tens of millions will lose their health insurance and individuals will see their premiums double. Let me repeat that. If the Republican bill passes—according to CBO, which is nonpartisan—tens of millions will lose their health insurance and individuals will see premiums double. Thirty-two million Americans would lose their health insurance, 18 million within the first year of repeal.

The report makes it crystal clear that the Republican effort to repeal the Affordable Care Act will increase health care costs for millions of Americans and kick millions more off their health insurance. No wonder President-Elect Trump realizes repeal without replace is the real disaster. No wonder he has admonished the Congress not to do plain repeal.

Some Republicans have tried to dismiss the CBO report as meaningless. I

would remind my Republican friends of two points. First, this is the CBO Director that Republicans handpicked. This is not some Democratic operative. He is a person who knows numbers, who was chosen by our Republican colleagues. You can't reject his findings.

Second, this is your repeal bill that the CBO is analyzing. They didn't make up the scenario. They took the exact bill we had on the floor and said: What are going to be the consequences? Devastating—over 30 million losing coverage, premiums doubling. All the things that our colleagues are complaining about with ACA are even worse under their bill. Their complaints on ACA are incorrect. We have gained numbers, and costs have gone down. The rate of costs have gone down—much lower than they would be under this report.

I say to my colleagues, this is your repeal bill. The CBO didn't make this up. It looked at the bill you sent to the President's desk, the bill you say your repeal bill will be modeled on. It isn't meaningless. It is your plan.

Now that repeal is real and not just a political exercise, the tide is turning. The American people are becoming roused by the prospects of dismantling health reform and leaving chaos in its wake. This is exactly why Republican Members of Congress are getting an earful back home from constituents who want them to turn back from their dangerous plan to make America sick again. I urge my Republican colleagues to listen to the growing outcry before it is too late.

#### CABINET NOMINEE HEARINGS

Mr. SCHUMER. One final issue: As the hearings continue this week on the President-elect's Cabinet nominees, I want to make a few points. As I have mentioned here on the floor several times, we Democrats want the process to be as fair and transparent as possible, abiding by all the ethics requirements demanded of nominees in the past. Yet the HELP Committee today will hold a hearing on Education Secretary nominee Betsy DeVos, who is worth \$5 billion and owns an investment company with untold financial entanglements, despite the fact that she doesn't have a signed ethics agreement in place. When somebody has such wealth and such complicated holdings, we have always made them sign an ethics agreement that says “Here is how I am going to divest so there is no conflict of interest,” so it is clear that the nominee is doing things for their country, not for their financial holdings. We don't have it, and we are rushing ahead with hearings in the HELP Committee. My dear friend whom I have so much respect for, the chair, the Senator from Tennessee, is just rushing forward, rushing forward. That is not a good way to start. It is not a good way for my Republican colleagues or the President-elect to start.

Then we have Wilbur Ross. He is the nominee for Commerce. He is a billionaire. We have a Cabinet loaded with billionaires, despite how President-Elect Trump campaigned. Mr. Wilbur Ross is a billionaire with vast and complicated holdings. He just delivered his paperwork yesterday. His hearing is scheduled for tomorrow. The paperwork is very complicated. When you have \$1 billion, it is not just in U.S. treasures. But they are rushing forward. The committee needs some time to review those documents before a hearing. I am hopeful we can move it back.

Then there is the fact that tomorrow there are four hearings. We have asked the majority to space out the hearing schedule so that Members who sit on multiple committees can have time to prepare and attend all the hearings. That is going to be very difficult for many Members tomorrow.

We have tried to cooperate with my friend, the majority leader. These are not good signs. They don't bode well.

You can see why the President-elect and Republicans are trying to rush these nominees through. The President-elect promised to change the way America operates, to oppose elites and the rigged system, to clean the swamp, and to pay attention to working families. But now he is rigging the Cabinet with billionaires and bankers. It is exactly the opposite of what the President-elect campaigned on, so they are trying to get it done as quickly as possible—the less scrutiny, the better. They don't want these people exposed for who they are and what they represent. Oh, no, that is not fair to the American people. They deserve the chance to get a good look at these nominees.

Thank you, Mr. President.  
I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. TILLIS). Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in a period of morning business until 4:15 p.m., with Senators permitted to speak therein up to 10 minutes each.

The Senator from Georgia.

#### CBO ESTIMATE ON OBAMACARE REPEAL

Mr. ISAKSON. Mr. President, I am delighted to follow the distinguished minority leader, who is a gifted orator, a brilliant legislator, and an expert in something called disparate impact. Disparate impact is where you take two facts that are extraneous and put them together for an appearance of an irregularity or an impropriety without any fact being true.

The statements made about the CBO estimate were accurate in what he said but wrong in the implication. He is accurate that CBO did say it would cost money if we didn't have a replacement for ObamaCare, which is the replacement being worked on as we speak right here today. Both are facts, but when put together the way he put them together, it makes it look as though we are spending money that we are not, in fact, spending at all.

The CBO estimate also does not include the impact of legislative and administrative action to stabilize individual markets. In the absence of making that consideration, of course it is going to be more costly. Those are both extraneous facts that, when put together, make the appearance of a crime, which just isn't there.

#### NOMINATION OF TOM PRICE

Mr. ISAKSON. Mr. President, I come to the floor today to talk about my friend, Dr. TOM PRICE. In a way, I am glad the minority leader brought up Representative PRICE and brought up specific allegations that have been made against him so I can hopefully put some light on the misperception that those allegations made and, in fact, shine some positive light on a great nominee to be Secretary of Health and Human Services.

I have known TOM PRICE for 30 years of my life. He and his wife Betty are dear friends. Their son Robert is the age of one of my sons. He is a fine young man. TOM is a leader in our community, a leader in the Roswell United Methodist Church, the first-ever elected Republican majority leader of the State of Georgia Senate, the chairman of the Budget Committee of the U.S. House of Representatives, former president of the study committee in the House of Representatives, and an all-around terrific individual who has a litany and liturgy of recommended approvals and improvements that have made the United States of America legislatively and legally much better.

TOM is a family man. I mentioned Betty and his son Robert. He is an accomplished professional. He is an orthopedic surgeon. He and his wife Betty met during their residencies at Grady Memorial Hospital. She is an anesthesiologist. TOM is an accomplished orthopedic surgeon.

TOM is one of those orthopedists who came together with a number of other orthopedists to form what is known as Resurgens Orthopaedics, the largest orthopedic practice in the Southeastern United States—one of the finest anywhere in the country.

TOM has worked tirelessly in the Republican Party, tirelessly on the Democratic-Republican bipartisan agreements that have been made, and tirelessly on behalf of his community.

He is a fine individual and is uniquely qualified to be the Secretary of Health and Human Services. This is an agency that will spend \$1 trillion of the

taxpayers' money on an annual basis. You want a man who has been chairman of the Budget Committee. You want a man who understands finances. You want a former legislator who knows how to get the job done. TOM PRICE is that man.

In fact, I am particularly well qualified to introduce TOM to this body and recommend him as Secretary of HHS because he replaced me when I left the House when I was elected to the Senate. He has been reelected six times. He served 6½ terms in the House of Representatives, and he has an extensive legal background, an extensive legislative background, and an accomplished background of conservative leadership for the United States of America. Most importantly, he has done so on many issues dealing with medicine, and why not? He is an expert in medicine.

I know a little bit about real estate. I authored legislation on real estate. That is what you do when you are in a profession and know a little about something Congress is looking at. But the allegations made by Senator SCHUMER—and being echoed in some of the media and papers around town—are just another example of taking disparate impact.

I want to talk to you a little about what Senator SCHUMER was talking about. He was talking about the purchase of Zimmer Biomet stock, 26 shares, worth \$2,674. That is what he was talking about. The two disparate facts that he put together to make a wrong were this: The purchase was made without TOM's knowledge because his account is managed by Smith Barney and Morgan Stanley. They manage his account. They make the decisions about what to buy. TOM doesn't make them. TOM found out about it and documented it on April 4, even though the purchase was made in March. He didn't even know the purchase had been made on his behalf until it was disclosed, which he did as he is required to do by the STOCK Act.

Every single fact brought up by the distinguished minority leader is a fact that is a required disclosure of the rules of the U.S. Senate to the Ethics Committee under the STOCK Act. So don't make this look like some sinister thing, and let's take it at face value. If you take it at face value, it was a purchase TOM didn't make; it was made on his behalf. It was a purchase we documented that he didn't know about until the 4th of April; the purchase was made in March. The purchase did not work to his benefit because the decision was not made by him.

He is like every other Member of the Senate and House who makes required disclosures of their activity because of the STOCK Act. TOM obeyed the law. TOM did what was right. What was done is right and is being made to look wrong only because of appearance but not because of fact. That is the wrong way to take on the consideration of any nominee of a President of the United States to be a Secretary of any part of the Cabinet.

I reiterate: Who else would be better to oversee \$1 trillion in spending than TOM PRICE, chairman of the Budget Committee, former member of Ways and Means, an accomplished legislator who put together the largest orthopedic practice in Atlanta, GA, and the State of Georgia? He is well qualified and eminently qualified. This body should overwhelmingly confirm his nomination to be U.S. Secretary of Health and Human Services in the United States of America.

I am proud as his friend, I am proud as a former associate and legislator, I am proud as the person he succeeded in the U.S. House of Representatives, and I am proud as an American citizen to know that our President has picked someone who is eminently qualified, who has an impeccable record of success in his legislative jobs, who is a fine family man, a member of his church, a disciplined member of his political party and, most importantly, a man who loves his country and is volunteering to sacrifice his time and his knowledge to make America's Department of Health and Human Services better.

Lastly, there is a little rumor going around that he is not for extending Social Security. That is ironic to me. Let me tell you what he and I did in November and December. We traveled throughout Georgia on behalf of AARP, presenting ways to save Social Security. Day in and day out, TOM PRICE is on the record of the State of Georgia, fighting to preserve Social Security for those who have it and for those who will get it in the future. So don't take this disparate impact of extraneous facts someone put together to try to make a wrong out of a right. Instead, look at the record of an impeccable legislator, a dedicated family man, a great American, and the next Secretary of Health and Human Services of the United States of America, Dr. TOM PRICE.

I commend him to every Member of this Senate and hope you will confirm him when his vote comes before the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HOEVEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### OBAMACARE REPLACEMENT PLAN

Mr. CASSIDY. Mr. President, I was pleased to see on the front page of the Washington Post that President-Elect Trump was speaking about how we should maintain at least the number of people covered under ObamaCare in a new kind of replacement for that portion of ObamaCare. If you will, I agree totally with him. We should fulfill this

promise and do it, as he said, at a lower cost.

We think we have a mechanism to do so with Senator COLLINS. We will speak to that today. First, let me point out, for those who are praising ObamaCare, I will say that since it has passed, the American people have been voting consistently against candidates who supported ObamaCare, culminating in the election of President-Elect Trump. So whatever folks might say about how wonderful it is, the American people are voting against it consistently.

That said, there is a mandate from the American people not just to repeal but to replace. So it is not that the American people don't want to have coverage, and they want folks with pre-existing conditions to have their issues addressed, but what they are concerned about is the way ObamaCare was forced upon them, with the power of Washington, DC, reaching into their own life, if you will, to their kitchen table, promising them penalties unless they comply with the Washington bureaucrats directly. That is what the American people do not like.

So, first, can we maintain coverage? President-Elect Trump said we are going to have insurance for everybody. Two, will we cover more? Yes. Three, can we lower costs? The answer there is yes.

Now, let's first speak to covering more Americans than ObamaCare. President-Elect Trump, Majority Leader MCCONNELL, and Speaker RYAN have all committed to maintaining coverage for all.

People speak of the advances made under ObamaCare. I will give them those advances. There are still 30 million people uninsured. Our alternative has the potential to cover 95 percent of Americans without a mandate. The way we do this is that as we return power to the States, we give States the option of saying that everyone who is eligible for coverage is enrolled unless they choose not to be.

Just like when I turned 65 and I am on Medicare. I am on Medicare. I don't feel it is a mandate. No one calls me up. Indeed, if I don't want to be on Medicare, I have to call someone up and tell them I don't want to be on it. State legislatures would have the option to say you are in unless you call and tell us you are out. I say that addresses two folks who are hard to reach; the fellow whose life is so in disarray that he is living beneath a park bench and the typical 28-year-old male who never thinks about health insurance. All of a sudden he is in without even realizing he is in, until he needs it, and then he will be very pleased.

On the other hand, if you don't want to be in, we make it easy to get out. By the way, I spoke of that fellow living beneath the park bench. As a physician who has worked in a hospital for the uninsured for 30 years, that was not tongue-in-cheek, and that is not a throwaway line. That person living beneath the park bench will never have

his life well enough together, or almost never, to go to a public library to log onto healthcare.gov. He does not have a W-2—and if he did, he lost it long ago—to submit it to sign up.

Under our program, he is enrolled. What are the benefits that he would get? He would have a health savings account so that if he goes to the urgent care center with a nail in his foot, it is covered. He has a pharmacy benefit, so that if he gets his life together while he is at that urgent care center to take an antipsychotic, he has a pharmacy benefit. Lastly, if something terrible happens, he is hit by a car or something, then he is brought to the hospital and that catastrophic coverage protects society against the cost of his hospitalization.

By the way, under our plan, we give States the power. I would like to think that this is something Democrats and Republicans can agree to. When Republicans say: You can keep your plan if you like it, and we mean it, we mean it. The way we would do this is that Congress would give States alternative options. The State would have the choice.

The State could go with the alternative, which we will lay out. The State could opt for nothing, no Medicaid expansion and no help for their lower income folks, or the State could opt to stay in ObamaCare. If Illinois, California, Massachusetts, New York want to stay in ObamaCare, we think they should have the right to stay in ObamaCare.

ObamaCare, if it is working for your State, God bless you. On the other hand, it is not working for a State where there are double-digit and sometimes triple-digit premium increases in 1 year.

So the State could choose to stay in ObamaCare, for nothing, or for the alternative, which we lay out for them. By the way, I would say that those who govern closest to those who are governed govern best. We know that the State of Alaska is far different than the State of California, Illinois, Louisiana, or New York. So let those States decide the system that works best for them.

What is the timeline? This year, 2017, we would like to repeal ObamaCare but put in place the legislation which allows, in 2018, for a State legislature or a Governor to choose the option they wish and the method by which they wish to enroll the people of their State. In 2019, the State would implement the replacement option of their choice. By 2020, the repeal and the replace would have been finished.

If, at a later date, a State wishes to change their option—they decided to stay with ObamaCare but on second thought now they wish to have the alternative we lay out, which I actually think would be something that might happen, they could choose that as a later option.

We are not being partisan. I tell folks, this is not a Republican plan, not



a Democratic plan, it is a patient plan, born out of my experience working in a public hospital for the uninsured; that if you give the patient the power, things line up. If we can make it an American patient plan, it does not matter what your State decides. I am comfortable that we will end up in the right place.

Our goal is to fulfill President-Elect Trump's promise, more coverage at lower cost. We think we have laid out a pathway which can truly be bipartisan to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, let me start by commending the Senator from Louisiana for all of the thought and the work he has put into coming up with an alternative plan that would fix ObamaCare and result in more Americans having affordable health insurance. As a physician, Senator CASSIDY cares deeply about his patients and about patients in general. His goal, which I share, is to make sure every American has access to affordable health care. I commend him for his hard work and leadership.

There has been much debate lately on the best approach to replacing and reforming the Affordable Care Act, also known as ObamaCare. Some of my colleagues have argued for immediate repeal without any replacement, an option I reject, for it risks leaving millions of vulnerable Americans without affordable health insurance and would undo important consumer protections provided by current law.

Others have proposed repeal with a delayed effective date of 2 or 3 years to allow time for the Senate to devise legislation that would provide a better approach to health insurance. My concern with the repeal-and-delay plan is that the ObamaCare exchanges, already on very shaky financial ground, would go into a death spiral as consumers would face uncertainty and insurers would have no basis for pricing their policies.

Already we have seen insurers fleeing the marketplaces in many States, reducing choices for consumers. In some States, only one or two insurers remain on the exchanges, leaving individuals and families with few, if any, choice of insurance carriers. Every single one of the 23 State cooperatives whose startup costs were financed by ObamaCare has experienced severe financial problems and only five remain operational today.

Many States, including Maine, are experiencing double-digit increases in premiums, causing increased costs for consumers and for taxpayers. So repeal and delay would only exacerbate this problem.

I am pleased to see a growing consensus among Members of both the Senate and the House that we must fix ObamaCare, provide reforms at nearly the same time that we repeal the law, in order to protect families who rely on

the program and to give insurers time to transition to a new marketplace that is based on more choices for consumers.

Many of us have been working for years on proposals to reform our health care system, to expand coverage, and to encourage new delivery systems that would help restrain the growth in health care costs. That is what the legislation that I am going to be pleased to be joining my colleague from Louisiana on, would do. It is focused on giving more choices while ensuring that consumers have access to affordable health insurance.

We have advanced bipartisan proposals in the past to deal with provisions of the law that have increased costs and discouraged employers from hiring full-time workers. Regrettably, every such reform has been met with a veto threat. That is why we continued to work.

In 2015, I joined Senator CASSIDY in introducing a more comprehensive and creative approach, the Patient Freedom Act, which is the basis for the legislation we are going to be introducing soon. It would allow States to have more choices. If they like the Affordable Care Act, they can keep the Affordable Care Act. If they want to go an alternative route that is more patient-centered, that would provide more choices and help to restrain costs, they can do that, too, and the Federal Government would bundle the funding that would otherwise be used for ACA subsidies and the expansion of Medicaid in their State and allow them to proceed along a more creative route.

We recognize how different the needs of our States are, but our citizens should have access to affordable health care and be able to choose the path that works best for them.

We will be talking more about the specifics of our bill when we introduce it, but I am excited about this approach. I am not saying it is perfect, but it is important that we put specific proposals on the table that our colleagues can coalesce around, debate, and refine so that we can move ahead and remove the fear and uncertainty of families who are relying on coverage through the exchanges without putting an undue burden on the employers who create jobs in this country.

Mr. President, let me again commend the Senator from Louisiana. He has worked so hard to come up with a fresh approach. He has been very open to suggestions that I and others have made.

We all understand the importance of maintaining the consumer protections that help individuals with preexisting conditions, that ensure that young people can remain on their parents' insurance policies until age 26, and that prohibit lifetime caps. Those provisions would remain. But what we want to do is to allow our States the option of selecting a different path that will lead to patient-directed reforms that contain costs and provide citizens with

more health care choices. The Patient Freedom Act does just that.

Again, I want to commend my colleague Senator CASSIDY for his leadership.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me start by commending my colleagues from Louisiana and Maine. I really believe their approach to the Affordable Care Act is much more reasonable than what we have heard in the past from some.

Senator COLLINS just went through a litany of options of repeal and run or repeal and replace 2 years from now. None of those are good options, and there is a reason why there is a backlash against this repeal effort across the country now, even among many Republicans as they consider the chaos that would be created by simply repealing it.

I don't know the merits of the proposal they brought before us. I can tell you, having been through the debate on the Affordable Care Act, which went on for years, that there are many complex questions that need to be addressed to satisfy all of us that we are doing the best we can do to give affordable, quality health care to more and more people across the United States.

The Congressional Budget Office just put out its report on what would happen if we just repealed, and it is a disaster. The number of people who are uninsured would increase by 18 million in the first new year following enactment of a repeal bill.

Later, after the elimination of the ACA's expansion of Medicaid eligibility and subsidies for insurance purchased through the ACA, that number will increase to 27 million more uninsured and then to 32 million in 2026. Disastrous.

Premiums in the nongroup market—and those are folks who don't work for companies that provide health insurance—premiums in the nongroup market, with just repeal, would increase by 20 to 25 percent in the first year and then reach 50 percent in the year following the elimination of the Medicaid expansion and would double by 2026. So fewer people would have insurance, and those who do would pay dramatically more.

So we shouldn't take this as just a matter of being able to have a bragging right about repeal. If we are serious about legislating, we should be looking at the options to find out how to make the Affordable Care Act better or how to approach it in a different manner.

I commend my colleagues on the Republican side. Here is what it comes down to: If a handful of Republican Senators will say to the leadership: We are not going to vote to repeal until we have a replacement, then we can have a constructive conversation. But this notion of repealing the Affordable Care Act and then getting around to replacing it at some later time is irresponsible, will create chaos, and really says



to the American people: We are no longer committed to making sure your family has the peace of mind of good health insurance. So I thank them for the efforts they have put into this, and I look forward to working with them.

#### PRESIDENT OBAMA'S LEGACY

Mr. DURBIN. Mr. President, yesterday I went to the White House. It was a great celebration of the World Series champion Chicago Cubs being recognized in the White House by our President from Illinois, Barack Obama. Of course, he is a White Sox fan, and he didn't apologize or change his stripes, but it was a great day of celebration. During the course of it, he said it was his last public event in the White House, and I came to realize that we are only days away from a new President and President Obama leaving.

I think back to a memorable moment in my life which most people wouldn't have remembered, but I will never forget. It was July 27, 2004. The place was Boston, MA. At the last minute, I was called on to introduce a friend of mine, a skinny lawyer and State senator from Illinois who was about to deliver the keynote address at the 2004 Democratic National Convention. His name was Barack Obama. I had known him for several years. I knew he was an extraordinarily gifted politician, and I knew he was a very good person.

I had seen him inspire many audiences back home, including some in the most unlikely places. I once saw him hold spellbound a group of blue-collar workers and farmers in Carroll, IL—a town which in the 1960s was completely devastated by racial tension and the presence of a local branch of the Ku Klux Klan—but even I was not prepared for the powerfully moving speech Barack Obama gave after I introduced him in Boston. It has been quoted in the Times. He told us:

There is not a liberal America and a conservative America—there is the United States of America. There is not a Black America and a White America and Latino America and Asian America—there's the United States of America.

He went on to say:

The pundits like to slice and dice our country into red States and blue States; red States for Republicans, blue States for Democrats. But I've got news for them, too. We worship an awesome God in the blue States, and we don't like Federal agents poking around in our libraries in the red States. We coach Little League in the blue States, and, yes, we've got some gay friends in the red States. There are patriots who opposed the war in Iraq, and there are patriots who supported the war in Iraq.

He only spoke for 17 minutes at that Boston convention—17 minutes—and in that time, he gave voice to what another tall, lanky lawyer from Illinois once called “the better angels of our nature.” He touched a longing deep within the hearts of millions of Americans who wanted to believe in those better angels, who wanted to believe in what Barack Obama called “the audac-

ity of hope,” the audacity to believe that America, which had achieved so many miracles, was capable of even greater goodness. People inside the convention hall and millions outside who heard that speech all had the same reaction: I have seen America's future.

I remember going back to Illinois a few days after that convention and campaigning with Barack as he was running for the U.S. Senate. He went to the most unlikely downstate towns—Calumet, IL; Freeport, IL. Huge crowds were coming in from adjoining States because they had seen him give that speech at the Democratic Convention. I knew there was something special about him.

His grandmother called him after he gave the speech. She gave him some advice. “You did well,” she said. “I just kind of worry about you. I hope you keep your head on straight.” Good advice for all of us.

A little over 4 years later, my friend—then the U.S. Senator from Illinois—was elected the 44th President. On inauguration day 2009, 2 million Americans stood shoulder to shoulder outside on the Mall near the Capitol dome and cheered as the son of a father from Kenya and a mother from Kansas placed his hand on the family Bible of Abraham Lincoln and swore to uphold and defend the Constitution of the United States.

For the last 8 years, President Barack Obama, First Lady Michelle Obama, their daughters Malia and Sasha, and First Grandmother Marian Robinson have made their home in the White House. What an irony—they were living in a house originally built by slaves.

The audacity of hope. The awe-inspiring strength of America to continually seek and stretch to be that “more perfect Union.”

Part of the miracle of America is also the peaceful transition of power from one President to the next. As we prepare for the transition to a new President, we would do well to look back on the historic Presidency of Barack Obama. He was elected and reelected President both times convincingly.

His grandmother would be proud that he has not only kept his head on straight, he has held his head high, kept his priorities straight even amidst often unprecedented, unyielding opposition and searingly personal attacks. As First Lady Michelle Obama told us, the motto for the entire Obama family has been “When they go low, we go high.” We have seen that grace in them time and time again.

President Obama is a profoundly good and decent man who has served America with dignity and integrity. He has been thoughtful, calm, and resolute—never rash or impulsive. He is a disciplined leader who has grappled honestly with complex challenges facing America and the world, and he has delivered solutions that improved lives.

In his farewell speech in Chicago, President Obama quoted the fictional

hero Atticus Finch, reminding us: “You never really understand a person until you consider things from his point of view . . . until you climb into his skin and walk around in it.” Putting himself in another person's shoes, seeing life through another person's eyes, and finding shared hopes is a lifelong habit and a special gift of this President.

He has tried his level best to heal and unite our divided Nation. His accomplishments are significant, and history will record many of them as profound.

He was first elected at a time when America badly needed hope. President Obama inherited—inherited—the greatest financial and economic crisis since the Great Depression. The country had lost more than 2 million jobs in the previous 4 months before he was sworn in. By inauguration day, the country's top four banks had lost half their value in less than a year. There was an urgent danger that not only the American economy would collapse, but the economy of the Western world was teetering in the balance.

The American Recovery and Reinvestment Act, called the stimulus bill, saved the U.S. and global economy from a major crash and helped create the conditions for recovery. Unemployment today is at 4.9 percent. America has just seen the longest streak of private job creation in the Nation's history. To borrow a phrase, thanks, Obama.

Our friends across the aisle said: Let America's auto industry die. The Obama administration said: No way. They decided to place their bets on American manufacturing and workers instead. The Center for Automotive Research estimates that the special bankruptcy process for General Motors and Chrysler saved at least 1.5 million American jobs. Detroit has posted record profits for 7 years in a row. Barack Obama would not give up on American autoworkers or American auto companies, and it paid off.

Predatory lending and other systemic abuses were the cancer at the heart of the great financial meltdown of 2008 and 2009.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent that I be recognized for an additional 5 minutes.

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

Mr. DURBIN. Thank you, Mr. President.

Under this President, Congress passed the most comprehensive overhaul of financial regulations since the Great Depression, protecting consumers and taxpayers.

President Obama inherited a Federal budget hemorrhaging red ink. Under his watch, the budget deficit has fallen \$1 trillion, despite record investments in education, green energy, broadband, high-speed rail, medical research, and other high-return priorities.

He brought us the Affordable Care Act. I am not going to dwell on it because I spoke on it before when the other Senators were on the floor.

There was a skit on “Saturday Night Live” last week that talked about, would the Republicans be happy if we banned the word “ObamaCare”? Can we stick with the Affordable Care Act since it is helping so many people? Sometimes we think that is what this is all about: We have to get rid of it because it has his name on it. Well, we shouldn’t. We should reflect on the good that it has done and make sure we do nothing less in the future. Health insurance costs are going down at the fastest rate in 50 years. Medicare gets an additional projected 10 years of solvency because of the Affordable Care Act. Numerous Republican Governors, including Vice President-Elect Mike Pence, have used Medicaid expansion of ObamaCare to reduce the uninsured in their States.

On the issue of climate, I will defer to my friend from Rhode Island, who has stepped off of the floor for a moment, but when it comes to this, President Obama has taken climate change seriously. He does not view it as an unproven theory or a Chinese-authored hoax; he believes it is a fact, and so do I. It is a threat to the existence of humanity, and we are running out of time to prevent a climate catastrophe.

Americans built on the historic breakthrough at the 2015 U.N. summit on climate change in Paris. When that summit ended, 195 countries joined the United States and agreed to lower greenhouse gas emissions.

The President once told a group of young people: “I refuse to condemn your generation and future generations to a planet that is beyond fixing.”

We have a safer and more secure America. This President brought troops home—massive numbers of troops—who were dispatched around the world in harm’s way. He understands we can’t fix all the world’s problems. We learned that the hard way. He banned the use of torture. We have seen the withdrawal of the majority of U.S. troops from Iraq and Afghanistan. Al Qaeda has been decimated, Osama bin Laden is history, and ISIS is on the run.

Under President Obama, Americans led the successful global effort to conquer an Ebola epidemic in West Africa, and he helped preserve a democratic Ukraine, despite the aggression of Vladimir Putin of Russia. He has restored relations with Cuba after 50 years of a failed policy. The President and John Kerry had enormous diplomatic success with the Iran agreement to protect our friend and ally Israel and many other states in the Middle East.

I want to close by saying that his efforts in two areas are personal to me. Criminal justice reform, this President is determined to make sure our sentencing laws are just. There are things going on now that are just indefensible.

We have been jailing people and imprisoning them for drug crimes for decades—unacceptable. The President is determined to get this done. We did part of it. I hope we can do more.

Finally, let me just say that this President, more than any, has really shown a caring for the DREAMers, a bill I introduced 16 years ago, so that those who came to the United States as children, through no fault of their own undocumented, would get a chance. That was it. He put together DACA, an Executive order which gave them that chance.

We have to work now to protect these bright, young people. I am so encouraged that Speaker PAUL RYAN, at the CNN town meeting last week, acknowledged this and said he was willing to work to make sure we protected them. Barack Obama was the one who gave them this opportunity, and now it is up to us to follow through and give them a fair shake in life.

Mr. President, to reiterate, the affordable Care and Patient Protection Act that our colleagues across the aisle are now rushing headlong to repeal—without anything to replace it—represents the greatest advance in economic fairness and security for most Americans since at least the creation of Medicare 50 years ago.

ObamaCare has made the health coverage of all insured Americans more secure and more valuable by: outlawing discrimination based on pre-existing conditions; eliminating costs for checkups, mammograms and many other preventive measures; and allowing young people to stay on their parent’s policies until age 26—among other new protections.

It has reduced the ranks of uninsured Americans by 20 million, and it has saved money. That’s not a matter of opinion, it’s a fact.

According to an analysis by the respected, nonpartisan Brookings Institution, health insurance exchange premiums are 44 percent lower today than they would have been without ObamaCare.

Health insurance costs are going down at the fastest rate in 50 years.

Numerous Republican Governors—including Vice President-Elect Mike Pence—have used the Medicaid expansion in ObamaCare to reduce the uninsured in their States. That’s a good thing.

But now President-Elect Trump and our Republican colleagues tell us that they want to repeal ObamaCare, cancel those patient protections, go back to the days when insurance companies write all the rules, and leave 20 million Americans without insurance.

They say they will come up “fairly easily” with something better than ObamaCare.

I say to my friends: If it were easy, it would have happened already. Work with us to fix the things that can be improved, not kill it. Lives are at stake.

President Obama understands that climate change is not an unproven the-

ory or a Chinese-authored hoax, it is a fact. It is a threat to the very existence of humanity and we are running out of time to prevent a climate catastrophe.

Under Barack Obama, America went from being the chronic spoiler to being a world leader in global climate change negotiations.

We reached a sweeping bilateral climate pact with China to cut greenhouse gas emissions—something critics said could never happen.

America built on that historic breakthrough at the 2015 U.N. summit on climate change in Paris. When the summit ended, 195 countries had agreed to lower greenhouse-gas emissions.

The President once told a group of young people: “I refuse to condemn your generation and future generations to a planet that’s beyond fixing.”

He has done his part to keep that commitment. We should build on his progress, not reverse it.

The cornerstone of President Obama’s foreign policy is a recognition that America remains the world’s one indispensable nation and that we, and the world, are safer when America chooses engagement over either isolation or unilateralism.

He also understands that America cannot fix all of the world’s problems. We have to choose wisely, based on our ideals, our priorities and our limits.

He banned the use of torture. He has seen the withdrawal of the majority of U.S. troops from Iraq and Afghanistan. Al Qaeda has been decimated, ISIS is on the run, and Osama Bin Laden is dead.

Under President Obama, America led the successful global effort to contain and conquer an Ebola epidemic in West Africa.

And we helped preserve a democratic Ukraine against Russian aggression.

President Obama announced plans to restore normal relations with Cuba—reversing 50 years of a failed policy that done at least as much harm to America’s relations with our neighbors in this hemisphere as it had done to depose the Castro regime.

The President and Secretary of State John Kerry made a momentous diplomatic success in negotiating an agreement to prevent Iran from gaining nuclear weapons, protecting our ally Israel and many nations across the Mideast.

The Iran nuclear deal holds the promise of defusing a ticking time bomb. If Iran fails to live up to that promise, we will know quickly and we will take the steps to stop them.

I want to touch briefly on two other issues that I have worked on very closely and to which I am deeply committed.

The first is the growing, bipartisan movement to end America’s era of overincarceration.

America has 5 percent of the world’s population—and nearly 25 percent of the world’s prisoners. That ignominious fact is largely the result of inflexible antidrug laws that disproportionately punish people of color, especially poor people of color.

In 2010, President Obama signed a law that I introduced with Senator SESSIONS called the Fair Sentencing Act. It replaced a Federal law that demanded dramatically harsher sentences for convictions involving crack cocaine than powder cocaine.

I have worked with Democrats and some brave Republican colleagues for a few years to further reform Federal sentencing—to allow Federal judges some discretion in nonviolent drug cases, and eliminate “three strikes and you’re out law” and other overly harsh and inflexible laws that are overly harsh and hugely expensive to enforce.

In the absence of action from us, President Obama has used his powers to commute the sentences of more than 1,000 people—more than 50 times the number of people whose sentences were commuted by President George W. Bush and more than the past 11 Presidents combined.

We can’t have it both ways. If we don’t want President’s to use their lawful Executive authority to correct injustices, we need to correct those injustices ourselves. I hope we will do so in this new Congress.

Finally, we must—we must—fix America’s broken immigration system.

And let’s start by assuring DREAMers—those young people who were brought to this country as children and who are undocumented through no fault of their own—that we will not deport them from the only nation they have ever called home.

I have come to this floor dozens of times to tell you their stories. They are scholars, American soldiers, researchers, doctors, engineers, lawyers, clergy members.

DACA—the President’s Executive order—allows them to stay in this country temporarily while Congress works to pass a comprehensive immigration reform plan that meets the needs of our economy, and honors our values and our unique and powerful heritage as a nation of immigrants.

More than 750,000 DREAMers put their trust in our Government and came forward to register under DACA.

What will happen to them if—as many fear—DACA is not extended?

Immigrants are not a threat to America. Immigrants are America. The sooner we acknowledge that fact and align our laws with it, the better we will be.

Mr. President, I could go on for quite some time about what President Obama, Vice President Biden, and their administration have meant for America, but time precludes that so I will close with these last thoughts.

In that historic speech he delivered in Boston 12 years ago, President Obama told us that, in his father’s native tongue, the name “Barack” means “blessing.”

President Obama leaves office now as the most popular politician in America, and assured of his place in history. I believe that America has been fortunate—even blessed—by his service and sacrifice as our President.

President Obama has also warned us that “History travels not only forwards; history can travel backwards, history can travel sideways.” I hope that we can all pledge, regardless of party, to keep history moving forward.

The PRESIDING OFFICER (Mr. LANKFORD). The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that at the conclusion of the majority whip’s remarks, I be recognized.

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

Mr. WHITEHOUSE. I thank the Presiding Officer, and I yield to the majority whip.

#### OBAMACARE REPLACEMENT

Mr. CORNYN. Mr. President, I thank my friend from Rhode Island for his courtesy.

Last week, the Senate took the first step in providing needed relief for the American people from a health care plan, the Affordable Care Act, that overpromised and underdelivered. Many people are hurting now as a result of the failed promises of ObamaCare. They were told their premiums would go down, that they would be able to keep the policy they had if they liked it, and that if they liked their doctor, they could keep their doctor, none of which has proved to be true. So it is important that we keep our commitment to the American people. I believe we have gotten a mandate as a result of the election on November 8 that we keep our promise to repeal the Affordable Care Act and to deliver health care that is affordable and is a matter of individual choice and freedom of choice.

The basic problem with ObamaCare is that it was command and control right out of Washington, DC, where people didn’t have sufficient humility when it comes to rearranging one-sixth of our national economy and believed that they could, in the process of writing a 2,700-page bill—that I doubt many of them read—take over and improve our health care delivery system.

It was sold on the basis of providing people access to affordable care, and in many instances, according to my constituents, they have seen their premiums skyrocket and deductibles skyrocket, effectively being insured but giving them no benefit of insurance coverage at all.

I realize there were some things that people liked to talk about when they talk about ObamaCare that were positive; for example, dealing with people with preexisting conditions. I agree that people should not lose their health insurance coverage when they change employers and be caught in a trap where your insurance company doesn’t cover your preexisting condition, but you don’t need ObamaCare in order to deal with that problem. People also like the idea that single adults living at home can continue to be listed on

their parents’ health insurance up to age 26. That is enormously popular on a bipartisan basis. Again, we don’t need a 2,700-page takeover of the health care system in order to deliver some of these consensus items of reform.

I believe, and we believe, that there are certain principles that ought to govern the replacement of ObamaCare that we will see unfold in the coming weeks; first and foremost, moving the health care decisions outside of Washington and back to where they belong—to patients, families, and their doctor.

We also believe patients ought to have more tools, such as health savings accounts which they can use to pay for their regular health care along with perhaps a catastrophic coverage which would help them in the event of an unexpected health care condition that would require hospitalization. If you are young and healthy and don’t need all the money you set aside in health savings accounts, you can keep that money and use it for your eventual retirement.

We also believe we ought to break down barriers that restrict choice and permit Americans to pick an insurance plan that is best for them and their family. One of the worst aspects of ObamaCare is that Washington, DC, said: Here is your health care coverage, and we are going to punish you with a penalty if you don’t buy it, forcing people to buy coverage that they didn’t want and didn’t need—for example, a single male being forced, in essence, to buy maternity coverage. That is just 1 of the 10 essential health benefits that was mandated in ObamaCare that drove the cost of insurance through the roof, not to mention the fact that the pools of people who were insured tended to be older and less well, thus driving premiums again through the roof.

Another principle that is really important to our health care reform replacement is empowering small businesses to provide employees with the kind of health care coverage that meets their needs through association health plans so they can pool their risks together to bring costs down and to increase their choices. We believe there ought to be flexibility on the part of the States when it comes to Medicaid spending. We ought to, in my book, give the States the money and the block grant and say: Come up with a health care delivery system for Medicaid’s low-income citizens that best suits their needs. We haven’t done that under ObamaCare. We have had a mandate and tied the hands of the States when it comes to coming up with alternatives to health care delivery.

Finally, when it comes to employers that provide 61 percent of the health care coverage for Americans, rather than tying their hands and driving up costs, what we ought to do is allow for increased flexibility for employer-sponsored plans that will help bring down the costs. We hear our colleagues on the other side of the aisle talking about ObamaCare like it was the gold

standard: There is nothing wrong with it. It is just perfect as it is.

Well, I don't have to tell our Democratic friends about the unintended consequences of this partisan exercise. ObamaCare was passed without a single Republican vote so the problems that have developed from it are problems that were created by our Democratic colleagues. Having said that, we hope they will work with us to come up with an alternative which we believe would be an improvement on the status quo, to make health care more available, at a price people can afford, with choices that would be theirs, not a mandate out of Washington, DC.

#### CABINET NOMINATIONS

Mr. CORNYN. Mr. President, let me talk just a minute about the nominations process. In 2009, when President Obama was sworn into office, there were seven Cabinet members sworn in on his first day in office. That is a demonstration of the good faith and civility that ordinarily extends in the peaceful transition of power from one President to another. That doesn't mean we were excited on this side of the aisle about the fact that President Obama won as opposed to our preferred candidate, but we believed it was our responsibility to carry on this tradition of peaceful transition of power. The President, having won the election, was entitled to surround himself with his team, subject to the vetting and the confirmation process and the process known as advise and consent.

I believe we need to see some cooperation from our colleagues across the aisle, including the confirmation of the next Attorney General of the United States, Senator JEFF SESSIONS. Our Senate colleagues know JEFF SESSIONS. They have worked alongside him. They don't need to read his resume, they don't need to know more about his record because they know his heart. They know JEFF to be an honorable and decent man who believes fervently in the rule of law and who will drain that swamp known as the Department of Justice, which has become an outpost of the political operation in the White House, and restore it to its rightful reputation as a Department of Justice that believes in equal justice under the law and doesn't play politics.

I would also state that our colleagues across the aisle ought to work with us to confirm the next Secretary of State, Rex Tillerson. Mr. Tillerson, I believe, is an inspired choice for Secretary of State. Some have wanted to say that the relationships he has developed around the world working on behalf of the shareholders of ExxonMobil are a liability. I actually view it as a spring. When you are talking to somebody, you are less likely to get involved in a fight or get involved in a misunderstanding that might lead to some unnecessary conflict. I don't have any doubts about his willingness and commitment to work on behalf of the

United States and all of our people, just like he has worked on behalf of the shareholders of the business he has run for all these years.

Finally, let me just say a word about the Secretary of Defense nominee, Gen. James Mattis. We overwhelmingly passed a waiver that would reduce the number of years a uniformed military officer had to be out of the military before they would be eligible for Secretary of Defense. I think the reason it passed by such a wide bipartisan majority is people realize there aren't many men or women in the world like Gen. James Mattis with the qualities that he brings to this important job. He is a real warrior statesman. Someone who has walked the walk and seen live combat during a 40-year career in the U.S. Marine Corps.

During his hearing before the Senate Armed Services Committee last week, all of us had a chance, along with our colleagues on the Armed Services Committee, to ask him how he would handle a host of foreign policy and national security issues. During the question-and-answer period, he mentioned the importance of preserving our country's military power, but he also noted that our Nation has historically held the power of inspiration by our example, inspiring others around the world with our democracy. That extends well beyond our uniformed military and the threat of military might. That is something that should be cultivated well beyond our military preparedness. The point is, with General Mattis, we have a strategic thinker who sees the big picture, and I am confident he will lead our military in a way that advances our interests around the world, and what I am particularly looking for are leaders in the Trump administration who will restore America's leadership role around the world wherever we go and wherever we look because I believe, in my heart of hearts, that one reason the world has become more dangerous and less stable is because many people around the world who are adversaries have viewed the Obama administration as retreating from America's traditional leadership role in the world, and believe me, there are plenty of countries—plenty of bad actors—that are willing to take advantage of that void when America retreats and doesn't demonstrate its historic leadership role.

I hope all of our colleagues will join us in supporting not only General Mattis's confirmation but Secretary of State Tillerson's and all of the others, including the Attorney General nominee, JEFF SESSIONS, and all of the other nominees of President-Elect Trump. They have every right to a thorough vetting. They have every right to ask hard questions to get information to help them vet these nominees. That is our job. In the end, they should not delay for just delay's sake, which unfortunately some of them have threatened to do. That will not help anybody. It will not help this new administra-

tion, it will not make America a safer place, and it will make us more vulnerable to those around the world who want to disrupt the peaceful transition of power from one Presidency to the next.

Mr. President, I thank my colleague from Rhode Island for his courtesy, and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, the senior Senator from West Virginia has a very short time clock and has asked me to yield 2 minutes to him before I begin my remarks.

I ask unanimous consent that that take place and that then I be recognized at the conclusion of his remarks to speak in morning business for the duration of my remarks.

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

The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I thank my most generous friend from Rhode Island, Senator WHITEHOUSE, for allowing me to speak for a few minutes.

(The remarks of Mr. MANCHIN pertaining to the introduction of S. 175 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MANCHIN. Again, I thank the Senator.

Mr. WHITEHOUSE. My pleasure.

The PRESIDING OFFICER. The Senator from Rhode Island.

#### CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, in my "Time to Wake Up" climate speech—this is No. 154—I sometimes feel as if I am out here banging hopelessly against a tightly locked, barred, and soundproofed door. I make them anyway because, at a minimum, I want history to know what happened here when people look back and ask what the hell went wrong with American democracy. But I do admit that it can sometimes be discouraging.

However, last week something important happened. A public servant won a victory against a massive special interest. A court in Massachusetts allowed the attorney general of that Commonwealth to obtain files and records from the ExxonMobil corporation about its climate denial enterprise.

That is great news, and it is an important event. There is virtually universal scientific consensus—and even alarm—about climate and oceanic changes caused by burning the fossil fuel industry's products. In the face of that concern, the fossil fuel industry has gone to the mattresses to defend its business model. It is defending what the International Monetary Fund has described as a \$700 billion—billion with a "b"—annual subsidy just in the United States.

To defend a prize of that magnitude, the industry has set up an array of front groups to obscure its hand and to

propagate fake science designed to raise doubts about the real thing. With that fake science, they dupe the public and provide talking points for their political operatives. The front groups are a tentacled Hydra named after everyone from Cato to Madison, Jefferson, and Franklin, to George C. Marshall. The resemblances between this fossil fuel climate denial operation and the tobacco fraud scheme are profound, and these resemblances are noted often, including by the lawyer who won the tobacco case. Yes, the Department of Justice won that case.

At the same time, the fossil fuel industry has taken advantage of the political weaponry handed to them by five Republican appointees on the Supreme Court. This industry has used the unprecedented political power bestowed on mighty special interests by the Citizens United decision to extirpate—root out—any Republican support for climate action. When I got here, there was plenty of Republican support for climate action, but after Citizens United that changed. They have seized that party like a hostile political takeover and turned the Republican Party into the fossil fuel industry's political arm. It turns out that you can do this on the cheap, compared to losing a subsidy of \$700 billion a year.

This whole scheme reeks of mischief and self-interest, but in political forums the industry is such a powerful behemoth that it can block proper hearings, spout calculated misinformation, cloud up the truth, lobby to its heart's content, refuse to answer questions, pile up the spin doctors and front groups, buy and rent politicians, and threaten to end careers of anyone who crosses them—and they do. They made an example of Representative Bob Inglis and bragged of the political peril—their words—that would result to those who crossed them. That is how they play in the political branches. Truth doesn't matter to them. Truth is their adversary.

But you cannot play that way in court. That is why last week's victory was important. Court is different. In court you have to speak truthfully. Your lawyers can be sanctioned for lying in court. In court, your testimony is under oath, and you can be cross-examined. In court, evidence can be demanded and must be produced. In court, you cannot buy a judge's good will or bully a jury into compliance. Tampering with the jury is a crime. Judges cannot meet secretly with one side. No money can change hands, and biased judges must be recused.

Sir William Blackstone was the best-known jurist in England and America at the time of the Revolution. Trial by jury, he said, “preserves in the hands of the people that share which they ought to have in the administration of public justice, and prevents the encroachments of the more powerful and wealthy citizens.”

No wonder powerful and wealthy ExxonMobil wants no part of that. This

industry has gotten used to saying things with no accountability, dodging the truth, hiding the evidence, and using the massive weight of their political might to see to it that Congress has just the right bias wherever fossil fuel interests are a concern.

This Massachusetts ruling is a chink of light—and a welcome one—as darkness falls over an executive administration stuffed with nominees from the climate denial fringe, wrapped tight in the political tentacles of fossil fuel interests.

It makes the fossil fuel folks crazy to be called into court and to have to stand annoyingly equal before the law when they are used to being the big behemoth, able to tell everyone what to do or pay them or threaten them to do what industry wants. That is why they launched legislative subpoenas at attorneys general and what even Texas newspapers have called out as unseemly abuse of government power.

That is why they rush to the oil patch for judges who will interfere in investigations by attorneys general, even suggesting that attorneys general should not pursue cases against corporations whom they believe are responsible for misconduct because believing that is prejudicial.

Think of that. That is why the industry PR machine creates and propagates magical theories about the industry's First Amendment rights, when it is black letter law—admitted even by Senator SESSIONS in his Judiciary Committee hearing—that the First Amendment ends where fraud begins. Fraudulent speech, including fraudulent corporate speech, is not protected by the First Amendment. It is not now, and it never has been.

To clarify this point, I ask unanimous consent to have printed in the RECORD a June 2016 Washington Post op-ed by Yale Law School dean Robert Post titled “Exxon-Mobil is abusing the first amendment.”

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 24, 2016]

EXXON-MOBIL IS ABUSING THE FIRST AMENDMENT

(By Robert Post)

Global warming is perhaps the single most significant threat facing the future of humanity on this planet. It is likely to wreak havoc on the economy, including, most especially, on the stocks of companies that sell hydrocarbon energy products. If large oil companies have deliberately misinformed investors about their knowledge of global warming, they may have committed serious commercial fraud.

A potentially analogous instance of fraud occurred when tobacco companies were found to have deliberately misled their customers about the dangers of smoking. The safety of nicotine was at the time fiercely debated, just as the threat of global warming is now vigorously contested. Because tobacco companies were found to have known about the risks of smoking, even as they sought to convince their customers otherwise, they were held liable for fraud. Despite the efforts of tobacco companies to invoke First

Amendment protections for their contributions to public debate, the Court of Appeals for the D.C. Circuit found: “Of course it is well settled that the First Amendment does not protect fraud.”

The point is a simple one. If large corporations were free to mislead deliberately the consuming public, we would live in a jungle rather than in an orderly and stable market.

ExxonMobil and its supporters are now eliding the essential difference between fraud and public debate. Raising the revered flag of the First Amendment, they loudly object to investigations recently announced by attorneys general of several states into whether ExxonMobil has publicly misrepresented what it knew about global warming.

The National Review has accused the attorneys general of “trampling the First Amendment.” Post columnist George F. Will has written that the investigations illustrate the “authoritarianism” implicit in progressivism, which seeks “to criminalize debate about science.” And Hans A. von Spakovsky, speaking for the Heritage Foundation, compared the attorneys general to the Spanish Inquisition.

Despite their vitriol, these denunciations are wide of the mark. If your pharmacist sells you patent medicine on the basis of his “scientific theory” that it will cure your cancer, the government does not act like the Spanish Inquisition when it holds the pharmacist accountable for fraud.

The obvious point, which remarkably bears repeating, is that there are circumstances when scientific theories must remain open and subject to challenge, and there are circumstances when the government must act to protect the integrity of the market, even if it requires determining the truth or falsity of those theories. Public debate must be protected, but fraud must also be suppressed. Fraud is especially egregious because it is committed when a seller does not himself believe the hokum he foists on an unwitting public.

One would think conservative intellectuals would be the first to recognize the necessity of prohibiting fraud so as to ensure the integrity of otherwise free markets. Prohibitions on fraud go back to Roman times; no sane market could exist without them.

It may be that after investigation the attorneys general do not find evidence that ExxonMobil has committed fraud. I do not prejudge the question. The investigation is now entering its discovery phase, which means it is gathering evidence to determine whether fraud has actually been committed.

Nevertheless, ExxonMobil and its defenders are already objecting to the subpoena by the attorneys general, on the grounds that it “amounts to an impermissible content-based restriction on speech” because its effect is to “deter ExxonMobil from participating in the public debate over climate change now and in the future.” It is hard to exaggerate the brazen audacity of this argument.

If ExxonMobil has committed fraud, its speech would not merit First Amendment protection. But the company nevertheless invokes the First Amendment to suppress a subpoena designed to produce the information necessary to determine whether ExxonMobil has committed fraud. It thus seeks to foreclose the very process by which our legal system acquires the evidence necessary to determine whether fraud has been committed. In effect, the company seeks to use the First Amendment to prevent any informed lawsuit for fraud.

But if the First Amendment does not prevent lawsuits for fraud, it does not prevent subpoenas designed to provide evidence necessary to establish fraud. That is why when a libel plaintiff sought to inquire into the editorial processes of CBS News and CBS

raised First Amendment objections analogous to those of ExxonMobil, the Supreme Court in the 1979 case *Herbert v. Lando* unequivocally held that the Constitution does not preclude ordinary discovery of information relevant to a lawsuit, even with respect to a defendant news organization.

The attorneys general are not private plaintiffs. They represent governments, and the Supreme Court has always and rightfully been extremely reluctant to question the good faith of prosecutors when they seek to acquire information necessary to pursue their official obligations. If every prosecutorial request for information could be transformed into a constitutional attack on a defendant's point of view, law enforcement in this country would grind to a halt. Imagine the consequences in prosecutions against terrorists, who explicitly seek to advance a political ideology.

It is grossly irresponsible to invoke the First Amendment in such contexts. But we are witnessing an increasing tendency to use the First Amendment to unravel ordinary business regulations. This is heartbreaking at a time when we need a strong First Amendment for more important democratic purposes than using a constitutional noose to strangle basic economic regulation.

Mr. WHITEHOUSE. Mr. President, it makes this industry crazy to be in court and to have to tell the truth, so they will fight desperately on. The \$700 billion a year in subsidies makes it profitable to "lawyer up" by the boatload for this fight and to litigate to their damndest. So this is not over, but this may be the moment when the truth finally found a path around the ramparts of our well-kept congressional indifference and began to find its way into the daylight.

That is one of the reasons the Founding Fathers gave us independent courts and juries. "Representative government and trial by jury are the heart and lungs of liberty," wrote John Adams. Independent courts and trial by jury were a big deal to the founding generation. The Founding Fathers had a keen sense of history and of politics and of the mischief of conniving men. They were deeply concerned about corruption—corruption of the body politic by interests and factions.

They knew the Bible and had read Isaiah's warning of how "the faithful city has become a whore," with "princes" that are "companions of thieves." They knew about abusive power. They could envision an interest become so powerful as to overwhelm the executive and legislative branches of government and bend those branches to its will. They could envision a special interest so powerful that it could buy its own presses and confuse or beguile the public with propaganda and nonsense. They could envision special interests so powerful as to abuse and distort the very democracy they were building.

So there stand the courts and there stands the jury, the places in our system of government where money has no sway and where evidence, testimony, and truth rule the day.

God bless America.

I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. JOHNSON). Morning business is closed.

## GAO ACCESS AND OVERSIGHT ACT OF 2017

The PRESIDING OFFICER. Under the previous order, the Committee on Homeland Security and Governmental Affairs is discharged from the bill, and the Senate will proceed to consideration of H.R. 72, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 72) to ensure the Government Accountability Office has adequate access to information.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate, equally divided in the usual form.

The Senator from Nebraska.

Mr. SASSE. Mr. President, in just a few minutes we are going to vote on a bill that probably will not get a lot of attention in Washington. No cable news shows are going to give it breaking alerts, headlines. Roundtables of pundits will not be gathering to scream about it, and partisans are not going to score the bill.

It is a straightforward bill with a straightforward purpose—to ensure that the Government Accountability Office can tap into the data at the Department of Health and Human Services. But in this case, looks can be deceiving. The GAO Oversight and Access Act of 2017, which I introduced together with Senator TESTER 1 year ago, represents a significant victory for taxpayers.

Its impact won't be felt tomorrow in Washington, but over many years to come, taxpayers from Nebraska and across the country will see how passing this legislation played a role in forcing Congress to address some of the biggest problems that our government faces. Let's step back for a moment and understand why. What is the problem?

The Federal Government has a very serious budget problem. This isn't news to anyone who has been paying attention. It is not even something about which Democrats and Republicans disagree. We may not often agree on solutions, but we can and should agree to clearly identify the problems that the government and, therefore, our people face. Some of the problems are very big—so big, in fact, that it is hard to even wrap our minds around how large the numbers are, like the fact that last year this government spent \$587 billion more than all it collected in taxes. Consider how big \$587 billion is.

National defense is the first and fundamental reason that the Federal Government exists. Last year we spent \$595 billion on all of our national security or in the entire defense budget. When Ronald Reagan was sworn into office, the entire Federal budget was \$590 billion. Now that is what we are borrowing annually.

Or look at it this way. Historically, the amount we borrowed last year was bigger than every Federal budget for the first 160 years of the Nation—combined. That is, if you added up every dollar that the government spent from 1789 through 1950, it would still be less than the \$587 billion that we overspent and therefore borrowed just last year. The former number got us through the Civil War, two world wars, and the Great Depression.

Some of our problems are actually relatively small, but they ultimately add up to something big. Just look at some of the stuff Senator FLAKE dug up in this year's "Wastebook" report or what Senator LANKFORD put in his report this year entitled "Federal Fumbles." The Commerce Department gave \$1.7 million to the National Comedy Museum to resurrect dead comedians using holograms. Also, \$70,000 of our taxpayers' money went to a Minnesota theater to put together an opera of Steven King's "The Shining." And \$17,000 was spent for people to wear fat suits to learn sensitivity to those with weight problems. These things are tiny individually, but when you put them together, they add up to a lot of our budget.

Expert after expert testifies before our committees that this is unsustainable. We all know this cannot go on forever. At some point, the government's borrowing and overspending ways will catch up with us and we will have a Greek-style debt crisis.

Congress needs to begin acting now to fix the government's structural problems—chiefly in the entitlement programs, for those are the spending categories whose trajectories dwarf all others.

All of this gets to the central problem that the bill we are considering this afternoon was designed to solve—namely, that Congress is flying blind when it comes to overseeing huge portions of our budget, and therefore we don't have the information we need to fix these problems.

The portion in particular I have in mind is the means-tested entitlement programs and the tax credits program. These include Medicaid; the earned-income tax credit, or EITC; the Supplemental Security Income—or disability—Program; food stamps; and Pell grants. All of these were designed to assist our low-income friends and neighbors. All of them together absorb a significant part of today's Federal budget.

As of right now, \$1 in every \$6 we spend is on only 10 means-tested programs and tax credits like the ones just listed, according to the CBO, but because of an anomaly in the law, Congress has been blocked from getting the best information that is available about how these programs are actually working or not working. What do I mean by that? For years, the Government Accountability Office—the GAO, the agency that is supposed to be the taxpayers' watchdog because it is supposed to hunt down waste and expose



abuses—has been trying to gain access to a database at the Department of Health and Human Services called the National Directory of New Hires. The new hires database was created in 1996 to help enforce child support payments, and in order to do that, it collected some basic information—basically, who has a job, where they work, whom they work for, and how much they make.

The GAO's interest in this data should be pretty obvious. If it could compare the information in the database to the information in the means-tested programs, it could easily spot fraud, waste, and mismanagement. For instance, if a program's rules say that to qualify for benefits, a person needs to earn less than a certain amount of income annually, GAO would be able to use the database to see if the program is actually operating as designed and then issue reports to Congress. This is exactly the kind of thing that the GAO does across all other Federal programs and that Congress routinely uses the GAO for—to take their recommendations to figure out how we should reform programs that are failing. Only in this case, HHS has blocked the GAO from accessing the database.

Again, these are the biggest categories of Federal spending. The place the GAO has not been able to do its work is in the places where we are spending the most money. It is classic Washington—bureaucracy blocking oversight for taxpayers. It is not always malicious, but this is definitely wrong.

HHS has argued that when Congress created the new hires database, it didn't expressly give the GAO permission to look at this data, and so its hands are tied. GAO countered that Congress had previously given blanket permission to the GAO to access all Federal records many years prior.

Many in Congress believed that the law was clear and that GAO is entitled to this entitlement data under the law, but HHS has refused to budge, and the argument stalemated. The result has been the status quo, with GAO repeatedly requesting data and HHS steadfastly refusing to grant them access to the data, which means they have refused to grant us access to the data.

The GAO Access and Oversight Act of 2017 was introduced to settle this legal dispute between GAO and HHS once and for all in GAO's favor or, better, in the taxpayers' favor. In short, today's bill ensures that the GAO will have full access to the data in the national directory. By doing so, it will ensure for the first time that GAO has a key tool it needs to oversee some of the government's largest spending categories.

This bill does two additional things as well. No. 1, it clarifies that GAO does have standing in court to fight for Federal records the next time a Federal agency tries to deny the GAO—and therefore us—access to that data; and No. 2, it requires the GAO to let all relevant congressional committees know when it issues reports in their jurisdiction.

We are now on the doorstep of hopefully passing this legislation today, which has rightly gotten a lot of support in Congress. When it passes the Senate tonight, it will head straight to the President's desk for figure. Last year, it passed the House by a vote of 403 to 0, and the only reason it failed to pass the Senate was because of an anonymous hold.

In response, the House of Representatives took up this legislation as one of its first pieces of business and sent it over to the Senate 2 weeks ago, on January 4, moving just as quickly. It is a pleasure that the Presiding Officer today happens to be the chairman of the relevant committee that moved so quickly. Chairman JOHNSON and his new ranking member, CLAIRE MCCASKILL, immediately took up this legislation and moved it through the Committee on Homeland Security and Governmental Affairs, for both the chairman—the Presiding Officer today—and Senator MCCASKILL, the champions of oversight of the GAO. I thank the Presiding Officer, the chairman of the committee, for his leadership.

I urge all of my colleagues to support this bill tonight. It is appropriate that one of the first bills of this new Congress will be one to strengthen the authority of the GAO because by strengthening the powers of the GAO, what we are really doing is strengthening the Congress.

There has been lots of talk around here on both sides of the aisle about the needs to reclaim Congress's article I power. Across the 240 years of this Nation—or 226 years since the Constitution; 227 as I do the math here in my head—the Congress is at a fairly weak point in history, and we should be strengthening the article I branch of the Constitution.

One obvious important way to strengthen the powers of the Congress and therefore the accountability that we all have to the American people is by doing better oversight. Conducting hard-hitting but fair oversight of the executive branch agencies is how we protect the separation of powers, and it is how we guard the taxpayers' funds, how we guard the wallet of the people. It is the Congress's job to write the laws and to control the purse strings, and it is the President's job to faithfully execute the laws. Good oversight gives the Congress the information we need to do our job and to ensure that the executive agencies are doing theirs. There is no better friend of the Congress in this regard than the Government Accountability Office. GAO is not simply another agency of a big government; the GAO is a part of the legislative branch, and it works hard to give Congress world-class insights into the operations of the other two branches. GAO is thorough, independent, and respected for its judgments by people of either party and no party at all.

I am deeply proud to see that Senator TESTER has joined us on the floor, for he and I were the original sponsors

of this bill. It is a pleasure that tonight we will be giving the GAO the tools it needs for oversight and therefore for our oversight.

It would only be natural, at the start of a new administration and a change of party in the executive branch, for Democrats to become more interested in oversight and Republicans to become less so. May that not be the case. I am hopeful that oversight will remain a top priority for Members on both sides of the aisle. None of us came here to be partisan cheerleaders. We came here to exercise the functions of this office on behalf of the people in our States and across this Nation. It is therefore encouraging tonight, even as a new administration is about to begin in 3 days, that Congress will be asserting its constitutional right to oversight with a big bipartisan vote.

I want to thank my partner on the bill, JON TESTER of Montana, who will speak next. When we first heard about this issue together during briefings and committee hearings, we immediately realized that something was wrong, that the GAO had been handcuffed and not able to access this data, and we committed to each other to make sure something was done about it.

I would also like to name the other original cosponsors of this bill, including RON JOHNSON, CLAIRE MCCASKILL, TOM CARPER, MIKE ENZI, BRIAN SCHATZ, MIKE LEE, TAMMY BALDWIN, DAVID PERDUE, JONI ERNST, JIM RISCH, STEVE DAINES, TAMMY DUCKWORTH, JOHN MCCAIN, THOM TILLIS, TODD YOUNG, ROB PORTMAN, and JAMES LANKFORD.

Finally, I wish to thank our House partners, including Representative BUDDY CARTER, Chairman JASON CHAFFETZ, and Ranking Member ELIJAH CUMMINGS.

Mr. President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I wish to start off my remarks by thanking Senator SASSE for us being able to work on this bill together. This is a good bill. He is exactly right—that this bill came out of the Presiding Officer's committee last year, the Committee on Homeland Security and Governmental Affairs. We met in the hallway and said: Let's fix this problem, because it is a problem. We have a bill on the floor today that does exactly that. It is a good-government bill. As the Senator from Nebraska has already pointed out, it is a truly bipartisan bill.

The GAO Access and Oversight Act makes the government more transparent and more accountable to our taxpayers.

Congress passed legislation in 1996 that created the National Directory of New Hires at the Department of Health and Human Services. Since that time, Congress has amended the law to permit other Federal agencies to access the directory. Today, Departments such as the Department of Education and the Department of the Treasury



can access the directory for information on the collection of defaulted student loans or the collection of delinquent Federal loans, but the GAO—the Government Accountability Office—has not been allowed access to this directory.

Now, by clarifying that the GAO has the authority to access the National Directory of New Hires, we can ensure that the taxpayers' watchdog is more easily able to do its job and root out Federal overpayments as well as waste, fraud, and abuse.

Federal agencies reported nearly \$125 billion in improper payments in fiscal year 2014 alone—that is \$125 billion with a “b.” By allowing the GAO access to this directory, Congress will provide the office with a critical tool that can help save taxpayers billions of dollars in unnecessary waste.

Once again, I thank the Senator from Nebraska for reaching across the aisle and working in a bipartisan fashion. This bill has strong support from Senators on both sides of the aisle, and—guess what—it passed unanimously in the House of Representatives.

I agree with folks across the country who have made themselves heard. They want a more transparent government, a more accountable government, and a more efficient government, and that is exactly what this bill does. That is why I encourage a “yes” vote on this good-government bill today.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. SASSE. Mr. President, I ask unanimous consent that all remaining debate time on H.R. 72 be yielded back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

Mr. SASSE. 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 senior assistant legislative clerk called the roll.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—99

Alexander	Burr	Coons
Baldwin	Cantwell	Corker
Barrasso	Capito	Cornyn
Bennet	Cardin	Cortez Masto
Blumenthal	Carper	Cotton
Blunt	Casey	Crapo
Booker	Cassidy	Cruz
Boozman	Cochran	Daines
Brown	Collins	Donnelly

Duckworth	Kennedy	Roberts
Durbin	King	Rounds
Enzi	Klobuchar	Rubio
Ernst	Lankford	Sanders
Feinstein	Leahy	Sasse
Fischer	Lee	Schatz
Flake	Manchin	Schumer
Franken	Markey	Scott
Gardner	McCain	Shaheen
Gillibrand	McCaskill	Shelby
Graham	McConnell	Stabenow
Grassley	Menendez	Sullivan
Harris	Merkley	Tester
Hassan	Moran	Thune
Hatch	Murkowski	Tillis
Heinrich	Murphy	Toomey
Heitkamp	Murray	Udall
Heller	Nelson	Van Hollen
Hirono	Paul	Warner
Hoeven	Perdue	Warren
Inhofe	Peters	Whitehouse
Isakson	Portman	Wicker
Johnson	Reed	Wyden
Kaine	Risch	Young

NOT VOTING—1

Sessions

The bill (H.R. 72) was passed.

The PRESIDING OFFICER. The Senator from South Dakota.

### MORNING BUSINESS

Mr. THUNE. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. THUNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

### NOMINATION OF SCOTT PRUITT

Mr. SCHATZ. Mr. President, having Scott Pruitt in charge of the EPA is bad for the air we breathe and the water we drink, and it is bad for American leadership on climate. It is not just that I have a different view from Mr. Pruitt on the Environmental Protection Agency, it is that he has made a career out of undermining the Clean Air and Clean Water Acts. It is not just that he is a Republican or that he doesn't share my views about clean energy.

Look, I understand that when a Republican administration comes in, their EPA nominee is going to have a different view of what the Agency ought to be doing. I am not suggesting that we are going to get Henry Waxman or JEFF MERKLEY to run the EPA. That is not what is going on here. Here is what it is, and I want people to listen carefully.

Scott Pruitt is a professional climate denier. That is his job. He has made his political bones trying to shred the EPA's ability to enforce the laws that protect clean air and clean water. The core mission of the EPA is to safeguard

public health by enforcing the laws on the books, and the cornerstones of the EPA's authorities are the Clean Air Act and the Clean Water Act. These laws were passed over 40 years ago with huge bipartisan majorities, and they have been extremely successful.

It is especially important for the dozens of young people watching C-SPAN right now to understand that the state of the environment in the late 1960s was catastrophic, like out of a science fiction movie. Even for those of us who were around, it is a good reminder of what the EPA has accomplished over the decades.

The Cuyahoga River in Ohio was so polluted that it caught on fire. Lake Erie was so polluted that almost nothing could live in it. Bacteria levels in the Hudson River were 170 times above levels that could be considered safe. Raw sewage was directly discharged into rivers and streams where children swam. The FDA found that 87 percent of U.S. swordfish contained so much mercury that they were unfit for human consumption. Then the Clean Water Act was passed. We made incredible progress in the last 44 years. We still have a long way to go, as about one-third of our waterways are not yet fishable and swimmable, as the law requires.

Scott Pruitt's opposition to the Clean Water Act and EPA makes me terrified that we could go back to the bad old days of water pollution. EPA's enforcement of the Clean Air Act is an even bigger success story. This law has saved millions of lives and improved the health of millions of others. EPA's enforcement of the law has reduced air pollution by 70 percent since 1970. Smog levels in L.A. have fallen two-thirds since their peak. Lead in the air is down 98 percent, carbon monoxide down 85 percent, sulfur dioxide down 80 percent. Acid rain is down over 50 percent and at a fraction of the anticipated cost. But this progress is in real jeopardy.

As the Oklahoma attorney general and as the head of the Republican Attorneys General Association, he dismantled the unit in his office charged with enforcing Federal environmental laws and stood up a unit to undermine Federal environmental law. He led the opposition to the Clean Power Plan. He sued the Federal Government over a dozen times to prevent the implementation of rules that would protect our health and our environment. What he does is fight the EPA. That is his thing.

As Oklahoma attorney general, he literally—I am not making this up—he literally copied and pasted a letter from a major oil company onto his official State attorney general letterhead and then sent it to the EPA as though it were his own.

I have never met Mr. Pruitt—and I assume he is personally a good guy—so I will say it like this: A person who works so closely with industries that

pollute our air and water is an unusually bad fit to run the EPA. Never before in the history of the EPA has a President nominated someone so opposed to the EPA to run it, and on the most significant environmental challenge of our generation, he is aggressively wrong. He has said that the climate debate is “far from settled” and that “scientists continue to disagree about the degree and extent of global warming and its connections to the actions of mankind.” This, of course, is nuts. The climate debate is settled and has been for some time. More than 97 percent of climate scientists agree that the climate is changing and that humans are responsible. Ask a scientist, ask a farmer, ask a fisherman, ask a skier or snowboarder. If you don’t believe 97 percent of scientists, will you at least believe your own eyes?

His position even puts him at odds with the Department of Defense, which has called climate change a “threat multiplier.” Here is the good news. We are actually making a lot of progress in clean energy, almost all of it in the private sector. The cost of solar power has dropped by 60 percent in the last 10 years and more new solar capacity was added in 2016 than any other energy source. Wind power was by far the largest source added to the grid in 2015. Clean energy generation grew by about 20 percent in the last year, and the long-term extensions of the renewable energy tax credits give us hope to think that kind of trajectory can be sustained. This comes at a time when public concern about climate change is at an alltime high, and with three-quarters of Americans, including half of Republicans, supporting Federal efforts to reduce carbon pollution.

This progress is fragile, and confirming Scott Pruitt can undermine our momentum. Again, here is Mr. Pruitt in his own words about the Clean Power Plan: “The EPA does not possess the authority under the Clean Air Act to accomplish what it proposes in the unlawful Clean Power Plant.” This is flat wrong.

Let me quickly explain a lawsuit called *Massachusetts v. EPA*. The Supreme Court ruled that the Clean Air Act requires the EPA to regulate air pollution and carbon pollution as a pollutant so it is not only that the EPA may regulate greenhouse gas emissions, under the Clean Air Act they are actually required to do so. Mr. Pruitt has bragged that he “led the charge with repeated notices and subsequent lawsuits against the U.S. Environmental Protection Agency.”

On climate change, he has said:

Is it truly manmade or is it just simply another period of time when the Earth is cooling, increasing in heat? Is it just typical, natural type of occurrences as opposed [to] what the administration says?

I cannot think of a person more ill-suited to run this Agency.

On clean energy, the Chinese are leading. Mexico is leading. Europe is leading. Germany, Africa. The question

isn’t whether the clean energy revolution will occur, the question is whether we will lead it or get left in the dust.

This is where we are. A nominee who does not understand the vital role of clean air, clean water, and protecting the environment has been nominated to lead the EPA, who denies decades of scientific research.

To my Republican colleagues, I have had many encouraging, rational conversations about climate with you but almost exclusively in private. I say this. This vote is the litmus test, the one your grandkids will ask you about. I know being in the Senate is about making choices—and lots of times it is great—but this issue, this vote is absolutely simple: Don’t vote for a climate denier. You cannot dabble in conservation or energy efficiency or vote for a budget amendment recognizing the scientific consensus on climate change and then vote yes on this nominee. If you say you are not a climate denier, this is the point in your career when you get to prove it. If we find another nominee, even one who hates the Clean Power Plan, who shares your view on federalism, who shares your view about the United Nations, about President Obama, that is fair, that is fine, but this nominee is out of bounds.

Please, consult your voters, your university experts, talk to your kids. It is their planet. It is their future—or consult with your own conscience.

I know sometimes politics is complicated and the right thing to do is not that easy to determine in the fog of the battle. This is not one of those times. For future generations, for the planet, for the future of the Republican Party, you have to get this one right. If you are not a climate denier, do not put one in charge of the Environmental Protection Agency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. PETERS. Mr. President, today I rise to talk about a critically important position in the Trump administration Cabinet: The Administrator of the Environmental Protection Agency. The EPA is charged with making sure that all Americans are safeguarded from major environmental threats to human health, where they live, where they learn, and where they work.

Originally proposed by a Republican administration, the EPA’s mission has been supported by Democrats, Republicans, and Independents alike. Clean air to breathe and clean water to drink are basic human needs that we all must work to protect. Disagreements involving the EPA usually stem from how to best preserve our vital resources, and we certainly welcome those debates in the Senate.

Oftentimes, the role of the Environmental Protection Agency is to provide a check and balance to activities that pollute our air, dirty our waterways, and contaminate our land. This is why I am so troubled by the nomination of Scott Pruitt as EPA Administrator.

Mr. Pruitt’s track record on environmental issues as Oklahoma’s attorney general is, in a word, dismal.

I am particularly concerned about the influence of the fossil fuel industry over Mr. Pruitt’s decisions and actions. As Oklahoma’s attorney general, he filed 148 lawsuits against the EPA to undermine their efforts. In 13 of those cases, companies that gave political donations to Mr. Pruitt also joined in that suit. As ranking member of the Science Subcommittee, I am worried that scientific data of the Environmental Protection Agency will be minimized, suppressed, or politicized. Mr. Pruitt has tried to instill doubt in the strong consensus of global climate change scientists, claiming that the debate on fundamental scientific principles is far from settled.

If his confirmation goes through, I am concerned that the work of EPA scientists may be edited, twisted, or buried to protect special interests and prevent necessary action. Many Michiganders are rightfully afraid that Mr. Pruitt will not enforce our bedrock environmental laws like the Clean Water Act and the Clean Air Act. We have seen him fight against these very laws from his current position.

All across the Nation, communities are dealing with contamination and environmental catastrophes. Rural and urban communities alike depend on the strength of these laws as well as EPA’s resources and their expertise. For example, the people of Flint, MI, are still suffering through devastating effects of a catastrophic drinking water crisis. The Environmental Protection Agency is heavily involved to make sure the drinking water in Flint will be safe and the National Safe Drinking Water Act rules will be updated. I am very concerned that the EPA will ignore the lessons learned after the Flint water crisis under Administrator Pruitt, and Flint is not the only community facing a water quality crisis. For example, Monroe County—which gets its water from Lake Erie—has seen its drinking water affected because of toxins in western Lake Erie.

Algae blooms—a result of runoff pollution—have made their way into drinking water intakes. Harmful algal blooms are a problem that scientists say will only get worse as we see higher temperatures and more precipitation in the future.

In addition to providing safe drinking water, I am concerned that enforcement of clean air policies would be weakened. Keeping our air clean isn’t just about climate change. It is about keeping pollutants out of the lungs of our children. People in places like Southwest Detroit and St. Clair County all too often suffer the harmful impacts from poor air quality. Detroit has some of the highest child asthma rates in the entire country. Children can’t learn if they are too sick to be in school.

Mr. Pruitt has a record we can look at, and it is very extreme. He has attacked measures that reduced interstate smog pollution, including protections against arson and mercury. If Mr. Pruitt has sought to weaken these protections around the country that protect us from poisons like arsenic and mercury, I think we have to ask the question, If he is confirmed, will he be protecting American families or will he be protecting the bottom line of multinational corporations?

To those who welcome Mr. Pruitt's approach of attacking the EPA, I would say strengthening our economy and our environment are not mutually exclusive. In fact, each effort depends on the success of the other. We must protect our natural resources so future generations will be able to sustainably use them.

Businesses can only attract top talent and jobs to the United States if we have clean places to live and to work and if we have a healthy workforce. Sick days brought on by environmental toxins hurt small businesses, and environmental catastrophes can decimate a lifetime's worth of equity built up by homeowners.

Smart, effective protections can be good, not just for our physical health but for our economic health as well. Previous EPA nominees from both parties have understood these basic principles. What separates Mr. Pruitt from past EPA nominees is his contempt for the mission of the Environmental Protection Agency and his disregard for the science that provides the very foundation for the Agency's actions.

Just as I would not vote to confirm a fox to guard a henhouse, I will not vote to confirm Mr. Pruitt to safeguard our Nation's environment.

I urge my colleagues to join me to oppose Mr. Pruitt's nomination.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I spent the last few days having town hall meetings at home. It was a big challenge. We had a tremendous amount of snow. The distinguished Presiding Officer is very familiar with that. We had the most snow since 1937, and it just goes on and on. We are battling freezing rain. Yet Oregonians came out in big numbers to participate in the discussion about what is going on in Washington, DC. They were particularly troubled about what was being done at the Environmental Protection Agency in the nomination of Scott Pruitt to head it. We had 200 people in McMinnville on Saturday night, a small community. I think the temperature was about 22 degrees. What really troubled them is that it sure looks like, when you examine the record of Mr. Pruitt, that he is trampling on everything we call the Oregon Way. The Oregon Way is something that Democrats, Republicans, people across the political spectrum subscribe to because it involves protecting our treasured land, air, and water. It was something

we want for our generation, and we will pass it on to our kids, and it has been hugely valuable to us in attracting more industries that pay well because the workers at those industries want clean air and clean water.

When you look at Mr. Pruitt's career, it really upends everything that I would call the Oregon Way—repeated attempts to weaken or eliminate health-based environmental standards, air quality standards for toxic air pollutants, limits on carbon emissions to take on the challenge of climate change. These rollbacks are particularly harmful to children and low-income households, communities of color, minorities, families, and communities.

Yesterday, Senator MERKLEY and I spoke at our wonderful Martin Luther King Day Breakfast put on by The Skanner. Bernie and Bobbie Foster have been doing this for years. All I could think of is, if you roll back clean air and health standards, the people who are going to be hurt the most are low-income minorities, and communities of color. I don't see a big outcry in America for policies that would do that kind of harm to some of the most vulnerable Americans.

Mr. Pruitt also has a troubling history of denying that fundamental science really ought to be the basis of American policymaking when it comes to environmental protection.

For example, he disputed the Agency's science-based findings in 2009 that greenhouse gases endanger public health and welfare. Now, my view is that this is an arguable and unfortunate reality of climate change. But Mr. Pruitt's challenge suggests either a misunderstanding about how environmental agencies ought to make science-based decisions or, even worse, a habit of setting science aside when the outcome is at odds with the special interests.

Again, that comes back to the kind of comments that were made during my five town hall meetings over the last few days at home. People would say: Look, Democrats and Republicans at home in Oregon, great Republican Governors—particularly led by the late Tom McCall—they would constantly come back to the proposition that you should not let the special interests trample on your treasures, your land and your air and your water, because not only was it bad for this generation—our generation—but it would be particularly damaging to our young people.

So it is really troubling that this has been the choice of the President-elect. My own view is that when it comes to environmental standards, one of the unsung successes of the last few years has been a rule cutting emissions of mercury, arsenic, lead, and other dangerous materials. It prevented, in 2016, 11,000 premature deaths. My concern is that a lot of those deaths would be seen in minority communities and communities of color, the people I was con-

cerned about when we had our Martin Luther King Day Breakfast.

Mr. Pruitt worked hard to gut that rule. He really pulled out all the stops to oppose a rule cutting emissions of mercury, arsenic, lead and dangerous heavy metals. He worked hard to gut it. If he is confirmed, he may just possibly be successful.

Now, the message that I have heard again and again is that we can do better than this. We can do better than this. I think the American people, when they see what is at stake—it has been hard to follow all of the hearings. I know that I was very interested in the questioning in the Foreign Relations Committee by the Presiding Officer. I was trying to follow all the nominations, and I could not get to all the hearings. I could not follow all of the questioning that I thought was important.

But even when all of this is going on, when people tell you before a Trailblazers game—at home in Portland, a pregame event—that they are unhappy about the environmental rules and the prospects of the environmental rules being gutted by the new head of the EPA, you know that you have people alarmed.

Oregon is no stranger to the threats of pollution. In 2015, there was a discovery that heavy metals, including cadmium and arsenic, had been emitted for decades into the air of Portland neighborhoods at dangerous levels.

This pollution was caused by a regulatory loophole the size of Crater Lake. At the time, I called on the Environmental Protection Agency to take action. Within days, they were on the ground in Portland helping to assess the public health risks. Not long after, they identified the cause of the regulatory oversight and corrected course.

It seems to me that Americans need to trust that the Environmental Protection Agency will be able to defend their communities from air pollution or from water contamination. That is how we have always looked at it in my home State of Oregon. We always felt that we could trust those that we elected of both political parties for years and years to say: You don't mess with Oregon's land and air and water.

Now, obviously, we have continued, even with that ethic, to have problems. While I was pleased that we were able to get some significant public health changes after we made that discovery in 2015 that there were heavy metals, including cadmium and arsenic, in the air of our neighborhoods, we have to do better. We have to do better at every level of government, and the EPA plays a critical role in ensuring clean and safe water, whether the water is running through a mountain stream or through a pipe to a Portland kitchen. Cities across the country, like my home town of Portland, are facing threats with high levels of lead in the water supply and outdated infrastructure to fix the problem.

These communities are counting on the Environmental Protection Agency

to be in a partnership with them to get this fixed to enforce strong water quality standards, and it only can happen if you have strong leadership that starts at the top. The American people have a right to have confidence that the head of the Environmental Protection Agency is going to defend the health and well-being of our communities and not the profits and the pocketbooks of the most powerful special interests in our country.

I am going to close by saying that I am not confident that a Pruitt EPA will stand on the side of those families against the special interests. That is why tonight I state that I will be opposing the nomination of Mr. Scott Pruitt to head the Environmental Protection Agency.

I yield the floor.

THE PRESIDING OFFICER (Mr. RUBIO). The Senator from New Jersey.

Mr. BOOKER. Mr. President, I join with my colleagues today. I appreciate the Senator from Oregon and his remarks. I join with him and the others who have spoken to express my grave concerns about the nomination of Scott Pruitt as Administrator of the Environmental Protection Agency.

It is really unacceptable to me that someone who denies climate change science could be put in charge of an agency that is really tasked with advancing our national strategy to address climate change and the ills resulting. Mr. Pruitt has said—the overwhelming evidence to the contrary—that the debate is far from settled. He denies what is happening in regards to the evidence and the science and the conclusions of the near consensus of scientists.

Time and again, this attorney general from Oklahoma, Mr. Pruitt, has filed suits actually to block the EPA's clean air and clean water regulations protocols, which have allowed the United States to lead the efforts to reduce carbon emissions and address the climate crisis we face.

There are few issues, in my opinion, that are as urgent as this, and across the globe that we must meaningfully do something collectively about. America must lead and not have a leader on this issue that is now so far out of step with global consensus. Everyone, from scientists and climate experts to business leaders and even our own military officials, understands that climate change is a real threat, not just to our environment but also to our economy, to the health of our people and our national security.

It is disturbing that, in a way—and it also defies common sense—if you hear the way some people talk about climate change, including our President-elect and Mr. Pruitt, you might think that not only is climate change not a problem but that it is not our problem. This could not be further from the truth. We are already, here in America, dealing with and seeing the very real impact of climate change.

Ask anyone living in my home State along the shore or a family in Lou-

isiana whose home has been destroyed by severe flooding or a farmer whose land has become barren from the droughts in California whether or not these consequences are real for their families. Yet, the President-elect and Mr. Pruitt not only refuse to acknowledge the consequences that we are facing but the dangerous and destructive path ahead. They are failing to face that if we fail to act.

Now, the facts of climate change are worth repeating. Air temperatures are rising. Ocean temperatures are increasing. The ocean is becoming far more acidic. Sea levels are rising, both because of expansion of warming oceans and because of the melting of land-based snow and ice that is now entering our oceans. Many mountain glaciers are melting away and the Arctic sea ice is decreasing.

Climate change is an American issue and it is a global issue. Addressing climate change should be a cause where we find agreement across political and geographic divides. In many ways, it already is. We have seen 36 Nobel prize winners come together in 2015 in a historic declaration on the threats of climate change. Brad Schmidt, winner of the 2011 Nobel Prize in Physics stated: “I see this issue as the single greatest threat to human prosperity.”

That is why, in late December 2015, 195 countries signed the Paris Agreement, a historic global agreement to meaningfully address climate change. That is why the Climate and Security Advisory Group, a nonpartisan group of 43 military and national security experts, including former military officials, spoke out to urge the next administration to “comprehensively address the security risks of climate change at all levels of national security planning.”

That is why more than 300 American businesses—significant economic engines of our economy—sent a letter to the President-elect urging him to address climate change and to continue America's participation in the Paris Agreement, saying: “Implementing the Paris Agreement will enable and encourage businesses and investors to turn the billions of dollars in existing law-carbon investments into trillions of dollars the world needs to bring clean energy and prosperity to all.”

You see, that is the false narrative—that somehow people's working on the climate change issue is done at the expense of businesses. But business leaders understand that there is a tremendous opportunity in the new economy—in a green-energy economy. There is tremendous agreement that America should be leading on this innovation and these ideas, not following that of others around the globe.

They are health care folks who understand the challenges to American health. That is why the American Lung Association warned that “climate change threatens the health of millions of people. While everyone is at risk for the harms of climate change and air

pollution, those most at risk include infants, children, older adults, and those with lung disease (such as asthma and COPD), cardiovascular disease or diabetes. They are the ones who must rush to the emergency room when they cannot breathe because of worsened ozone pollution during a heat wave, or when smoke blows into their yard from wildfires that may be burning hundreds of miles away.”

When we talk about climate change, we aren't talking about ideology or opinion. We are talking about science and evidence. We are talking about national security. We are talking about creating greater economic prosperity, and obviously we are talking about public health.

America cannot sit idly by. We cannot be sidelined in this effort, not just because we produce such a significant amount of the climate-changing chemicals and byproducts but also because we don't want to shirk the opportunities of being a leader in this space. And the American people really understand this. They understand that this isn't a lose-lose, that this could be a win-win for America and the globe. And that is why, according to a Gallop poll from March of last year—it said clearly that the majority of Americans are worried about global warming, and the majority of Americans believe global warming is a result of manmade pollution.

I understand that for many people climate change is not an immediate urgency and reality, but, again, we should understand that right now, many of our more vulnerable Americans are suffering as a result. I see this when I go home from here in Washington to Newark. Newark has almost an epidemic level of asthma, with kids missing school because of this health and lung risk. The facts are clear: The pollutants kids breathe are real. For families living in communities on the shore in my State who are still rebuilding after Superstorm Sandy, the facts are clear: Their homes are being destroyed by unpredictable weather events. In New Jersey, we have seen the damage up and down our coast, with rising sea levels, flooding, and extreme weather.

We know that those who can least afford it—low-income, hard-working families—are severely impacted around the country. Communities that are poor, often minority populations, disproportionately endure pain and suffering related to changes in the weather due to climate change.

We know that when evacuation orders are given, those who can afford to leave their homes face a far different reality than those who have financial constraints.

Not only is it more difficult for working families to deal with climate-related issues, but the neighborhoods and communities in which they live are often the ones that are more affected by the rising temperatures and the pollution caused by climate change. One researcher who conducted a 2014 study

on the effects of climate change reported that “generally, higher poverty neighborhoods are warmer, and wealthier neighborhoods are cooler.” We see that in cities in New Jersey.

Multiple studies continue to show that poorer communities are more likely to be exposed to harmful pollutants than higher income communities. One study from the University of Minnesota found that Americans of color are exposed on average to 38 percent higher levels of outdoor nitrogen dioxide and that disparities in exposure amount to about 7,000 deaths a year from the health problems caused by these realities.

Climate change is already posing real dangers. The most recent National Climate Assessment released in 2014 noted that communities in rural America, as well as urban communities, have already experienced consequences of climate change, including “crop and livestock loss from severe drought and flooding, damage to levees and roads from extreme storms, shifts in planting and harvesting times, and large-scale losses from fires and other weather-related disasters.” The report concludes that “these impacts have profound effects, often significantly affecting the health and well-being of rural residents and communities.”

In States like Oklahoma, for example, where the State legislature mandated a study on the potential impacts of climate change, the group commissioned to do that study, the Oklahoma Climatological Survey, definitively concluded the following:

The Earth’s climate has warmed during the last 100 years. The Earth’s climate will continue to warm for the foreseeable future. Much of the global average temperature increases over the last 50 years can be attributed to human activities, particularly increasing greenhouse gases in the atmosphere. Oklahoma will be impacted.

Undoubtedly, New Jersey, Oklahoma—where Mr. Pruitt is from—and the rest of our country and the world will continue to be impacted by this problem, especially if America does not lead and falls behind.

We have made great strides, though, in addressing climate change under President Obama, including critical tax credits for wind and solar energy that not only help deal with climate change but also help American businesses thrive and lead, with now more people being employed by solar than coal. We have the historic Paris agreement and EPA regulations to reduce emissions from the electric power and transportation sectors. We are making strides of which we all should be proud, and actually our economy is benefiting as a result.

The United States has now emerged as a global leader in meaningfully addressing climate change. We cannot afford to slow down this progress, but I am afraid that under the leadership of President-Elect Donald Trump, that is exactly where we are headed. Despite scientific evidence, popular concern,

and the real-life impacts of climate change being evidenced in communities all across the country, all different backgrounds, from urban to rural, our President-elect and his nominee for the EPA, Attorney General Scott Pruitt, plan to advance special interests ahead of the common interest, of the global interest, of America’s interests.

The United States has a long legacy of leading, being a global leader in times of crisis, and at a time when we see the realities of climate change, at a time when we and many scientists are concluding that there is a global crisis and military leaders are concluding that we have a global crisis, at a time when we are seeing the effect of that crisis being made real in regions across our Nation and our planet Earth, America must not waiver in its commitment.

I believe the Environmental Protection Agency deserves a leader who is prepared to lead—not deny, not retreat, not equivocate, not surrender ground that we have gained. We deserve to have an EPA leader who is just that—someone who stands up to lead, who makes the difficult choices and finds ways to unify our country, to pull from the wisdom of the military, the wisdom of businesses, the wisdom of communities like the one in which I live, and chart a course for this country that helps to lead the globe, lead planet Earth out of this crisis and into the strength we can find through American leadership. I believe that is the task: that we can save our environment and create incredible prosperity in the future.

With that, Mr. President, I yield the floor.

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

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

#### TRIBUTE TO JOHN SULLIVAN

Mr. DURBIN. Mr. President, today I want to take a few moments to acknowledge Illinois State Senator—and my friend—John Sullivan. John is one of the best and most decent men in politics—and there is no stronger advocate for the people of western Illinois. After all, they are John’s lifelong friends and family. He has been living and farming there his entire life. And after 14 years in the Illinois Senate, John retired and returned to the family business.

John Sullivan grew up on his family farm in Macomb, Nauvoo, and Hamilton. He spent his summers taking care of livestock and baling hay. In 1981, John graduated from Quincy College—known today as Quincy University—with a degree in history. After

college, he went to auction school and obtained his real estate license. He sold insurance before taking a job in Rushville with Production Credit Association.

He didn’t know anyone in Rushville—a town of just over 3,000 people—but he joined the local parish and quickly made friends. As fate would have it, Joan Merna moved to town and joined the same parish. Their friends decided to introduce them, and the rest is history. Today, John and Joan have been married for more than 33 years. And if you talk to their friends, they will tell you their marriage was one of the best things that happened to Rushville. They are a great team and have a wonderful family.

In 1986, John joined the family real estate and auction business, which his children and siblings still run today. Nearly 20 years later, he sat down with Joan at the kitchen table and decided to run for office. It was something he always wanted to do—and 2002 was as good a time as any. Before John, no one thought a Democrat could be elected Senator in western Illinois. For years, good candidates tried and failed. But John won office the old-fashioned way—by knocking on doors, walking in parades, and listening to people. He also had a secret weapon—six brothers and four sisters. Republicans said it was like running against the Walton family. And a couple of his brothers look just like John. The resemblance was so great that, during that first campaign, people sometimes thought John was everywhere all at once. They didn’t realize that sometimes they were seeing one of the Sullivan brothers.

John learned fast and rose in just a few years from a political novice to a leader of the Democratic Party in the Illinois Senate. If you want to see John’s legacy, you can look at the extensions of Route 336 and Route 67—main arteries that created hundreds of new jobs—and will continue to bring new jobs to the region long after we are gone. He has secured more than \$820 million for Western Illinois University in Macomb—and over \$16 million to keep the Quincy Veterans Home Guest House open.

But the greatest part of John’s legacy is the civility, reason, and dignity he has brought to his work—qualities that are needed in public service today. John understands that getting things done involves finding middle ground and getting along with people. Progress is a long march. It demands patience and perseverance. And sometimes, it requires the wisdom and humility to compromise, a lesson John learned from his parents, growing up as one of 11 children. When fights broke out, his parents didn’t get involved, they simply said: “Figure it out and just get along.” And they did. John took the same approach to governance and built his reputation as someone who is always willing to listen to the other side to see if there is a way to move forward

together. He knows that principled compromise isn't capitulation, but how democracy is supposed to work. He will be sorely missed in the Illinois Senate.

Despite his many achievements, his proudest accomplishment is his family. John and Joan still live on their family farm in Rushville where they raised four children. Matthew, Mark, Luke, and Emily. And let me tell you, Emily inherited some good public service genes—I am indebted to John and Joan for letting her work in my Washington office.

I will close with this. On the wall in John's Senate office was a photograph of his dad, along with the advice he gave him. He told John: "Don't forget the little guy." Throughout his career, he has never forgotten the little guys—family farmers, small business owners, and hard-working people wondering how they will send their children to college or retire with dignity. John has stood with them and been their champion. Now, as he enters the next chapter in his life, I want to wish him and

Joan many years of happiness and the best of luck with the family business and family farm.

#### FISCAL YEAR 2017 ENFORCEMENT FILING

Mr. ENZI. Mr. President, S. Con. Res. 3, the fiscal year 2017 congressional budget resolution, included an instruction to the chairman of the Senate Committee on the Budget to file enforceable levels in the Senate in the event the budget was agreed to without the need to appoint a committee of conference on the measure. On Thursday, January 12, 2017, the Senate passed the budget by a vote of 51–48. On Friday, January 13, 2017, the House of Representatives passed the budget without changes on a vote of 227–198. As such, today I wish to submit the required filing found in the resolution.

Specifically, section 4001 of the fiscal year 2017 congressional budget resolution requires the chairman to file: No. 1, an allocation for fiscal year 2017 for

the Committee on Appropriations; and No. 2, an allocation for fiscal years 2017, 2017 through 2021, and 2017 through 2026 for committees other than the Committee on Appropriations.

The figures included in this filing are consistent with the spending limits set forth in the Budget Control Act of 2011, as amended by the Bipartisan Budget Act of 2015, and the levels included in S. Con. Res. 3.

For purposes of enforcing the Senate's pay-as-you-go rule, which is found in section 201 of S. Con. Res. 21, the fiscal year 2008 congressional budget resolution, I am resetting the Senate's scorecard to zero for all fiscal years.

All years in the accompanying tables are fiscal years.

I ask unanimous consent that the tables detailing enforcement in the Senate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### ALLOCATION OF SPENDING AUTHORITY TO SENATE COMMITTEE ON APPROPRIATIONS FOR FISCAL YEAR 2017

(\$ billions)

	Budget Authority	Outlays
Appropriations:		
Revised Security Category Discretionary Budget Authority <sup>1</sup>	557.015	n/a
Revised Nonsecurity Category Discretionary Budget Authority <sup>1</sup>	526.951	n/a
General Purpose Outlays <sup>1</sup>	n/a	1,187.014
Memo:		
Subtotal	1,083.966	1,187.014
on-budget	1,078.487	1,181.466
off-budget	5.479	5.548
Mandatory	1,018.836	1,006.323

<sup>1</sup> The allocation will be adjusted following the reporting of bills, offering of amendments, or submission of conference reports that qualify for adjustments to the discretionary spending limits as outlined in section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA).

Note: This allocation is consistent with the statutory limits imposed by the Budget Control Act of 2011, as amended. Regular appropriations assumed in this allocation total \$551.068 billion in revised security category discretionary budget authority and \$518.531 billion in revised nonsecurity category discretionary budget authority. The allocation assumes \$1,181,800 in general purpose outlays stemming from those regular appropriations amounts. This allocation also includes the cap adjustments that occurred in calendar year 2016 for full-year spending for fiscal year 2017, pursuant to Section 251 of BBEDCA and Sections 302 and 314 of the Congressional Budget Act of 1974. Details of those adjustments can be found in the Congressional Record for May 12, 2016, May 26, 2016, June 27, 2016, September 2, 2016, and December 9, 2016.

#### ALLOCATION OF SPENDING AUTHORITY TO SENATE COMMITTEES OTHER THAN APPROPRIATIONS

(\$ billions)

	2017	2017–2021	2017–2026
Agriculture, Nutrition, and Forestry:			
Budget Authority	133.327	655.014	1,326.997
Outlays	121.523	602.835	1,227.828
Armed Services:			
Budget Authority	162.100	866.015	1,881.409
Outlays	162.432	862.246	1,878.163
Banking, Housing and Urban Affairs:			
Budget Authority	23.973	114.120	214.810
Outlays	1.767	–6.607	–44.043
Commerce, Science, and Transportation:			
Budget Authority	19.607	97.634	201.084
Outlays	14.227	78.264	153.420
Energy and Natural Resources:			
Budget Authority	3.635	21.597	44.402
Outlays	3.477	21.927	44.992
Environment and Public Works:			
Budget Authority	45.086	220.077	424.157
Outlays	2.593	12.994	25.832
Finance:			
Budget Authority	2,277.203	13,101.022	31,274.627
Outlays	2,262.047	13,073.093	31,233.186
Foreign Relations:			
Budget Authority	36.313	163.870	312.459
Outlays	30.758	149.512	296.865
Homeland Security and Government Affairs:			
Budget Authority	139.912	743.116	1,605.703
Outlays	138.197	730.847	1,571.469
Judiciary:			
Budget Authority	30.054	90.554	164.524
Outlays	16.069	94.016	171.897
Health, Education, Labor, and Pensions:			
Budget Authority	17.204	90.282	176.893
Outlays	15.841	89.820	183.421
Rules and Administration:			
Budget Authority	0.265	0.697	1.034
Outlays	0.236	0.565	0.799
Intelligence:			
Budget Authority	0.514	2.570	5.140
Outlays	0.514	2.570	5.140
Veterans' Affairs:			
Budget Authority	102.650	550.301	1,227.011
Outlays	108.091	557.468	1,233.262
Indian Affairs:			
Budget Authority	0.469	2.053	4.484
Outlays	0.829	3.038	5.263
Small Business:			
Budget Authority	0.000	0.000	0.000

ALLOCATION OF SPENDING AUTHORITY TO SENATE COMMITTEES OTHER THAN APPROPRIATIONS—Continued  
[\$ billions]

	2017	2017–2021	2017–2026
Outlays .....	0.000	0.000	0.000
Unassigned to Committee:			
Budget Authority .....	– 844.671	– 4,649.869	– 10,724.965
Outlays .....	– 835.437	– 4,608.689	– 10,648.885
Total:			
Budget Authority .....	2,147.641	12,069.053	28,139.769
Outlays .....	2,043.164	11,663.899	27,338.609

Includes entitlements funded in annual appropriations acts.

PAY-AS-YOU-GO SCORECARD FOR THE SENATE  
[\$ billions]

	Balances
Fiscal Years 2016 through 2021 .....	0
Fiscal Years 2016 through 2026 .....	0

TRIBUTE TO DR. ERICA TOWLE

Mr. THUNE. Mr. President, today I recognize Dr. Erica Towle, a Knauss Sea Grant fellow on the U.S. Senate Committee on Commerce, Science, and Transportation, for all of the hard work she has done for me, my staff, and other members of the committee over the past year. Dr. Towle received her Ph.D. in coral reef ecology from the University of Miami. In her post-graduate work, she has used her scientific expertise to inform public policy. I extend my sincere thanks and appreciation to Dr. Towle for all of the fine work she has done. I wish her continued success in the years to come.

ADDITIONAL STATEMENTS

100TH ANNIVERSARY OF THE BLUE WATER AREA CHAMBER OF COMMERCE

• Mr. PETERS. Mr. President, today I wish to recognize the Blue Water Area Chamber of Commerce on the occasion of its 100th anniversary. The chamber was founded in 1906 by a group of businessowners and entrepreneurs in Port Huron who volunteered their time and financial resources to the growth of the greater Port Huron-Marysville community.

Within its first year, the chamber had accomplished its goal of encouraging economic growth with the addition of new factories and the establishment of an industrial enterprise fund. Its work attracted new business from around Michigan, Illinois, and Kentucky. By the time the chamber was officially incorporated in 1917, it had grown to 905 members. This expansion allowed the chamber to begin to improve the well-being of the Port Huron community, a tradition that continues to this day.

Throughout its history, the Blue Water Area Chamber of Commerce has been more than just a way to connect businesses in the Port Huron area. It continually advocates for the community. Over the past few years, the chamber has led initiatives that have addressed housing shortages, advocated for improved conditions in our schools through finance reform and millage

campaigns, and supported campaigns to improve our regional infrastructure. It has fought, time and time again, not just for better business, but for the prosperity of the entire Blue Water region.

Today the Blue Water Area Chamber of Commerce continues its great tradition of fostering economic prosperity and community improvement. The guiding force throughout the last century has been the chamber's five core values: integrity, relationships, freedom, excellence, and happiness. By adhering to these values, they have grown and continued to succeed. In 2007, the Blue Water Area Chamber of Commerce was awarded the Chamber of the Year Award from the Michigan Association of Chamber Professionals. It received this great honor again in 2010, for its continued and outstanding work in advocacy, education, and assistance programs to its community, a true testament to the membership and leadership. The growth we have seen in the Port Huron over the past few years has been remarkable, and the Blue Water Chamber has been a critical component of that success and progress.

I am pleased today to ask my colleagues to join me in recognizing such an auspicious milestone for the Blue Water Area Chamber of Commerce. On its 100th anniversary, the chamber and its members have much to celebrate, and I wish them continuing success and prosperity in the years ahead.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Ridgway, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:02 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 84. An act to provide for an exception to a limitation against appointment of persons

as Secretary of Defense within seven years of relief from active duty as a regular commissioned officer of the Armed Forces.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 78. An act to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders.

H.R. 238. An act to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 3. Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2017 and setting forth the appropriate budgetary levels for fiscal years 2018 through 2026.

The message further announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 3, 2017, the Speaker appoints the following Members on the part of the House of Representatives to the Joint Economic Committee: Mr. Paulsen of Minnesota, Mr. Schweikert of Arizona, Mrs. Comstock of Virginia, Mr. LaHood of Illinois, Mr. Francis Rooney of Florida, Mrs. Carolyn Maloney of New York, Mr. Delaney of Maryland, Ms. Adams of North Carolina, and Mr. Beyer of Virginia.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 78. An act to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 238. An act to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:



By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2017" (Rept. No. 115-1).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RUBIO (for himself, Mr. FLAKE, Mr. MCCAIN, Mr. LEE, and Mr. COTTON):

S. 147. A bill to prevent a taxpayer bailout of health insurance issuers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. RUBIO:

S. 148. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition; to the Committee on Finance.

By Mr. RUBIO:

S. 149. A bill to amend the Higher Education Act of 1965 to provide student loan deferment for victims of terrorist attacks; to the Committee on Health, Education, Labor, and Pensions.

By Mr. RUBIO:

S. 150. A bill to amend title 18, United States Code, to provide an additional tool to prevent certain frauds against veterans, and for other purposes; to the Committee on the Judiciary.

By Mr. RUBIO:

S. 151. A bill to provide appropriate information to Federal law enforcement and intelligence agencies, pursuant to investigating terrorism, and for other purposes; to the Committee on the Judiciary.

By Mr. RUBIO (for himself, Mr. MCCAIN, and Mr. TOOMEY):

S. 152. A bill to amend title 38, United States Code, to provide for the removal or demotion of employees of the Department of Veterans Affairs based on performance or misconduct, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. NELSON:

S. 153. A bill to ensure reliable observation of hurricanes; to the Committee on Commerce, Science, and Transportation.

By Mr. RUBIO (for himself and Mr. NELSON):

S. 154. A bill to amend the Small Business Act to ensure small businesses affected by the onset of transmissible diseases are eligible for disaster relief; to the Committee on Small Business and Entrepreneurship.

By Mr. RUBIO:

S. 155. A bill to amend the National Labor Relations Act to permit employers to pay higher wages to their employees; to the Committee on Health, Education, Labor, and Pensions.

By Mr. RUBIO:

S. 156. A bill to require the Secretary of the Treasury to implement security measures in the electronic tax return filing process to prevent tax refund fraud from being perpetrated with electronic identity theft; to the Committee on Finance.

By Mr. RUBIO (for himself, Mr. NELSON, and Mr. LEE):

S. 157. A bill to allow seniors to file their Federal income tax on a new Form 1040SR; to the Committee on Finance.

By Mr. RUBIO:

S. 158. A bill to eliminate the payroll tax for individuals who have attained retirement age, to amend title II of the Social Security Act to remove the limitation upon the

amount of outside income which an individual may earn while receiving benefits under such title, and for other purposes; to the Committee on Finance.

By Mr. RUBIO:

S. 159. A bill to terminate Operation Choke Point; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RUBIO:

S. 160. A bill to reform the inspection process of housing assisted by the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. RUBIO (for himself and Mr. NELSON):

S. 161. A bill to improve hurricane forecasting and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RUBIO:

S. 162. A bill to restore Second Amendment rights in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WARNER (for himself, Mr. LANKFORD, and Mr. BOOKER):

S. 163. A bill to amend chapter 31 of title 5, United States Code, to establish in statute the Presidential Innovation Fellows Program; to the Committee on Homeland Security and Governmental Affairs.

By Mr. JOHNSON (for himself, Mr. BARRASSO, Mr. ENZI, Ms. BALDWIN, and Ms. KLOBUCHAR):

S. 164. A bill to direct the Secretary of the Interior to reissue the final rules relating to the listing of the gray wolf in the Western Great Lakes and the State of Wyoming under the Endangered Species Act of 1973; to the Committee on Environment and Public Works.

By Mr. ROUNDS:

S. 165. A bill to amend title 10, United States Code, to require an element in pre-separation counseling for members of the Armed Forces on assistance and support services for caregivers of certain veterans through the Department of Veterans Affairs; to the Committee on Armed Services.

By Mr. HATCH (for himself and Mr. BOOKER):

S. 166. A bill to require the Secretary of the Treasury to mint coins in commemoration of Muhammad Ali; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MORAN (for himself and Mr. ROBERTS):

S. 167. A bill to designate a National Memorial to Fallen Educators at the National Teachers Hall of Fame in Emporia, Kansas; to the Committee on Energy and Natural Resources.

By Mr. WICKER (for himself, Mr. CASEY, Mr. RUBIO, Mr. NELSON, and Mr. THUNE):

S. 168. A bill to amend and enhance certain maritime programs of the Department of Transportation; to the Committee on Commerce, Science, and Transportation.

By Mr. RUBIO (for himself and Mr. COTTON):

S. 169. A bill to counter anti-Semitism at the United Nations, and for other purposes; to the Committee on Foreign Relations.

By Mr. RUBIO (for himself, Mr. MANCHIN, Mr. CRAPO, Mr. NELSON, Mr. CORNYN, Mr. CARDIN, Mr. GRAHAM, Mr. MENENDEZ, Mr. HATCH, Mr. WYDEN, Mr. COTTON, Mr. BLUMENTHAL, Mr. PORTMAN, Mr. PETERS, Mr. CRUZ, Ms. STABENOW, Ms. MURKOWSKI, Mr. BENNET, and Mr. BLUNT):

S. 170. A bill to provide for nonpreemption of measures by State and local governments to divest from entities that engage in commerce-related or investment-related boycott,

divestment, or sanctions activities targeting Israel, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SULLIVAN (for himself, Mr. THUNE, Mr. NELSON, Ms. MURKOWSKI, Mr. SCHATZ, Ms. CANTWELL, and Mr. WICKER):

S. 171. A bill to reauthorize and amend the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002, to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. BALDWIN (for herself, Ms. WARREN, Ms. STABENOW, Mr. MARKEY, and Mr. MERKLEY):

S. 172. A bill to require the President to withdraw from the Trans-Pacific Partnership Agreement and to make that Agreement ineligible for expedited consideration by Congress; to the Committee on Finance.

By Mr. RUBIO (for himself and Mr. NELSON):

S. 173. A bill to require the United States Postal Service to designate a single, unique ZIP code for particular communities; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HELLER (for himself and Mr. SCHATZ):

S. 174. A bill to amend the Communications Act of 1934 to consolidate the reporting obligations of the Federal Communications Commission in order to improve congressional oversight and reduce reporting burdens; to the Committee on Commerce, Science, and Transportation.

By Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CASEY, Mr. BROWN, Mr. KAINE, Mr. WARNER, Mr. PORTMAN, Mr. TESTER, Mrs. MURRAY, Mr. SANDERS, Mr. DURBIN, Mr. FRANKEN, Mr. BOOKER, Mr. DONNELLY, Mr. HEINRICH, Mrs. MCCASKILL, Ms. HEITKAMP, Mr. NELSON, Mr. BURR, and Mr. SULLIVAN):

S. 175. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan and the 1974 United Mine Workers of America Pension Plan, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL:

S. 176. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan, and for other purposes; to the Committee on Finance.

By Mr. CARDIN (for himself, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. BALDWIN, Mr. BROWN, Mr. WHITEHOUSE, Mr. REED, Mr. WYDEN, Mr. FRANKEN, Ms. STABENOW, Mr. MARKEY, Mr. UDALL, Ms. KLOBUCHAR, Mr. KAINE, Mr. MERKLEY, Mr. BOOKER, Mr. WARNER, Ms. WARREN, Mr. SANDERS, Mr. VAN HOLLEN, and Mr. MENENDEZ):

S.J. Res. 5. A joint resolution removing the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAINES (for himself, Mr. HATCH, Mr. BLUNT, Mr. LANKFORD, Mr. INHOFE, Mr. CORNYN, Mr. BOOZMAN, Mr. WICKER, Mr. RISCH, Mr.

TILLIS, Mr. SASSE, Mr. LEE, and Mr. CRAPO):

S. Con. Res. 5. A concurrent resolution affirming the importance of religious freedom as a fundamental human right that is essential to a free society and protected for all people of the United States under the Constitution of the United States, and recognizing the 231st anniversary of the enactment of the Virginia Statute for Religious Freedom; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 11

At the request of Mr. HELLER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 11, a bill to recognize Jerusalem as the capital of Israel, to relocate to Jerusalem the United States Embassy in Israel, and for other purposes.

S. 17

At the request of Mr. SASSE, the names of the Senator from Idaho (Mr. RISCHE), the Senator from Utah (Mr. LEE), the Senator from Montana (Mr. DAINES), the Senator from Indiana (Mr. YOUNG), the Senator from Arizona (Mr. MCCAIN), the Senator from Oklahoma (Mr. LANKFORD), the Senator from North Carolina (Mr. TILLIS), the Senator from Ohio (Mr. PORTMAN) and the Senator from Illinois (Ms. DUCKWORTH) were added as cosponsors of S. 17, a bill to ensure the Government Accountability Office has adequate access to information.

S. 47

At the request of Mr. RUBIO, the name of the Senator from Arizona (Mr. FLAKE) was added as a cosponsor of S. 47, a bill to prevent proposed regulations relating to restrictions on liquidation of an interest with respect to estate, gift, and generation-skipping transfer taxes from taking effect.

S. 66

At the request of Mr. HELLER, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 66, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 71

At the request of Mr. NELSON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 71, a bill to amend the Internal Revenue Code of 1986 to temporarily allow expensing of certain costs of replanting citrus plants lost by reason of casualty.

S. 87

At the request of Mr. TOOMEY, the names of the Senator from Utah (Mr. HATCH) and the Senator from Louisiana (Mr. KENNEDY) were added as cosponsors of S. 87, a bill to ensure that State

and local law enforcement may cooperate with Federal officials to protect our communities from violent criminals and suspected terrorists who are illegally present in the United States.

S.J. RES. 4

At the request of Mr. LANKFORD, the name of the Senator from Montana (Mr. DAINES) was added as a cosponsor of S.J. Res. 4, a joint resolution disapproving the action of the District of Columbia Council in approving the Death with Dignity Act of 2016.

S. RES. 6

At the request of Mr. RUBIO, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from New Hampshire (Ms. HASSAN) were added as cosponsors of S. Res. 6, a resolution objecting to United Nations Security Council Resolution 2334 and to all efforts that undermine direct negotiations between Israel and the Palestinians for a secure and peaceful settlement.

S. RES. 9

At the request of Mr. HATCH, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. Res. 9, a resolution honoring in praise and remembrance the extraordinary life, steady leadership, and remarkable, 70-year reign of King Bhumibol Adulyadej of Thailand.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CASEY, Mr. BROWN, Mr. KAINE, Mr. WARNER, Mr. PORTMAN, Mr. TESTER, Mrs. MURRAY, Mr. SANDERS, Mr. DURBIN, Mr. FRANKEN, Mr. BOOKER, Mr. DONNELLY, Mr. HEINRICH, Mrs. MCCASKILL, Ms. HEITKAMP, Mr. NELSON, Mr. BURR, and Mr. SULLIVAN):

S. 175. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan and the 1974 United Mine Workers of America Pension Plan, and for other purposes; to the Committee on Finance.

Mr. MANCHIN. Mr. President, I am back again to introduce the Miners Protection Act.

It is bipartisan. We worked on it in a bipartisan manner, and we said: If it comes to the floor, we will pass it. So we are here again.

This is a promise that was made since 1946. These are men who have worked hard. They paid through the hard work they have accomplished through their own sweat, and we are trying to make sure they have their permanent fix to their health care and to their pensions. This is something that has a pay-for. It is back up again. It should have been done last year. We had an extension at the end until April. April is going to come and go again, and then we are going to start playing politics with this. If we get this done

now and get it done quickly, it is something that we can move on, and we can take care of the other problems we have.

Again, this is the Miners Protection Act, which our miners have worked for, earned, and deserved. Their widows and families are expecting this. They need this in order to live any type of a quality life.

I thank you, again. I thank all of my colleagues—my Republican friends for signing onto this piece of legislation and all of my Democratic caucus, which unanimously signed onto it. It is something that should be done and done quickly.

By Mr. MCCONNELL:

S. 176. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan, and for other purposes; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 176

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Helping Ensure Long-Term Protection for Coal Miners Health Care Act of 2017” or the “HELP for Coal Miners Health Care Act of 2017”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Over the 8 years preceding the date of the introduction of this Act, the coal industry and the communities supported by that industry have struggled, in large part due to overregulation.

(2) Excessive regulation has, in large part, made coal more expensive to mine and use and has put it at an unfair disadvantage in the marketplace.

(3) Because of these struggles—

(A) the coal mining industry has lost over 30,000 jobs since President Obama’s inauguration;

(B) over 600 coal mines have shuttered since President Obama’s inauguration;

(C) more than 25 coal mining companies have filed for bankruptcy since President Obama’s inauguration;

(D) Kentucky alone has lost over 10,000 coal mining jobs since President Obama’s inauguration; and

(E) the total number of operating coal mines has hit its lowest point on record.

(4) Because of the health risks often associated with mining, robust health benefits are vital to coal miner retirees; however, coal company bankruptcies, job cuts, and closures have exhausted the ability of many coal companies to continue providing health benefits to retirees and their dependents.

(5) Congress has stepped in twice before, in 1992 and in 2006, to assist retired miners and to secure their health benefits. When thousands more were at risk of losing their benefits at the end of 2016, Congress intervened again to provide a 4-month extension in health benefits for orphaned retired miners and their dependents.

(6) While this extension helped prevent the loss of health benefits for thousands of miners, it did not provide a long-term solution.

(7) It is necessary to provide a permanent extension of health care benefits for the orphaned retirees who are at risk of losing their retirement health benefits at the end of April 2017.

### SEC. 3. INCLUSION OF CERTAIN RETIREES IN THE MULTIEMPLOYER HEALTH BENEFIT PLAN.

(a) IN GENERAL.—Section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)), as amended by the Further Continuing and Security Assistance Appropriations Act, 2017, is amended—

(1) by striking clauses (ii), (iii), and (iv); and

(2) by inserting after clause (i) the following:

“(ii) CALCULATION OF EXCESS.—The excess determined under clause (i) shall be calculated by taking into account only—

“(I) those beneficiaries actually enrolled in the Plan as of the date of the enactment of the HELP for Coal Miners Health Care Act of 2017 who are eligible to receive health benefits under the Plan on the first day of the calendar year for which the transfer is made, other than those beneficiaries enrolled in the Plan under the terms of a participation agreement with the current or former employer of such beneficiaries; and

“(II) those beneficiaries whose health benefits, defined as those benefits payable, following death or retirement or upon a finding of disability, directly by an employer in the bituminous coal industry under a coal wage agreement (as defined in section 9701(b)(1) of the Internal Revenue Code of 1986), would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012 or 2015.

For purposes of subclause (I), a beneficiary enrolled in the Plan as of the date of the enactment of the HELP for Coal Miners Health Care Act of 2017 shall be deemed to have been eligible to receive health benefits under the Plan on January 1, 2017.

“(iii) ELIGIBILITY OF CERTAIN RETIREES.—Individuals referred to in clause (ii)(II) shall be treated as eligible to receive health benefits under the Plan.

“(iv) REQUIREMENTS FOR TRANSFER.—The amount of the transfer otherwise determined under this subparagraph for a fiscal year shall be reduced by any amount transferred for the fiscal year to the Plan, to pay benefits required under the Plan, from a voluntary employees’ beneficiary association established as a result of a bankruptcy proceeding described in clause (ii).”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 2016.

(c) GAO AUDIT.—Not later than 3 years after the date of the enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall conduct a study of the Multiemployer Health Benefit Plan described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) and shall submit to the appropriate committees of Congress a report analyzing whether Federal funds are being spent appropriately by such Plan.

### SEC. 4. CLARIFICATION OF FINANCING OBLIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 9704 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (3),

(2) by striking “three premiums” and inserting “two premiums”, and

(3) by striking “, plus” at the end of paragraph (2) and inserting a period.

(b) CONFORMING AMENDMENTS.—

(1) Section 9704 of the Internal Revenue Code of 1986 is amended—

(A) by striking subsection (d), and

(B) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(2) Subsection (d) of section 9704 of such Code, as so redesignated, is amended—

(A) by striking “3 separate accounts for each of the premiums described in subsections (b), (c), and (d)” in paragraph (1) and inserting “2 separate accounts for each of the premiums described in subsections (b) and (c)”, and

(B) by striking “or the unassigned beneficiaries premium account” in paragraph (3)(B).

(3) Subclause (I) of section 9703(b)(2)(C)(ii) of such Code is amended by striking “9704(e)(3)(B)(i)” and inserting “9704(d)(3)(B)(i)”.

(4) Paragraph (3) of section 9705(a) of such Code is amended—

(A) by striking “the unassigned beneficiary premium under section 9704(a)(3) and” in subparagraph (B), and

(B) by striking “9704(i)(1)(B)” and inserting “9704(h)(1)(B)”.

(5) Paragraph (2) of section 9711(c) of such Code is amended—

(A) by striking “9704(j)(2)” in subparagraph (A)(i) and inserting “9704(i)(2)”,

(B) by striking “9704(j)(2)(B)” in subparagraph (B) and inserting “9704(i)(2)(B)”, and

(C) by striking “9704(j)” and inserting “9704(i)”.

(6) Paragraph (4) of section 9712(d) of such Code is amended by striking “9704(j)” and inserting “9704(i)”.

(c) ELIMINATION OF ADDITIONAL BACKSTOP PREMIUM.—

(1) IN GENERAL.—Paragraph (1) of section 9712(d) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 9712(d) of such Code is amended—

(A) by striking subparagraph (B),

(B) by striking “, and” at the end of subparagraph (A) and inserting a period, and

(C) by striking “shall provide for—” and all that follows through “annual adjustments” and inserting “shall provide for annual adjustments”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 2016.

### SEC. 5. SENSE OF THE SENATE.

It is the sense of the Senate that Congress should work with the administration to—

(1) repeal onerous regulations that have contributed to the downfall of the coal industry; and

(2) support economic growth in Appalachia and other coal communities by promoting growth-oriented economic development efforts.

## SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 5—AFFIRMING THE IMPORTANCE OF RELIGIOUS FREEDOM AS A FUNDAMENTAL HUMAN RIGHT THAT IS ESSENTIAL TO A FREE SOCIETY AND PROTECTED FOR ALL PEOPLE OF THE UNITED STATES UNDER THE CONSTITUTION OF THE UNITED STATES, AND RECOGNIZING THE 231ST ANNIVERSARY OF THE ENACTMENT OF THE VIRGINIA STATUTE FOR RELIGIOUS FREEDOM

Mr. DAINES (for himself, Mr. HATCH, Mr. BLUNT, Mr. LANKFORD, Mr. INHOFE,

Mr. CORNYN, Mr. BOOZMAN, Mr. WICKER, Mr. RISCH, Mr. TILLIS, Mr. SASSE, Mr. LEE, and Mr. CRAPO) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 5

Whereas United States democracy is rooted in the fundamental truth that all people are created equal, endowed by the Creator with certain inalienable rights, including life, liberty, and the pursuit of happiness;

Whereas the freedom of conscience was highly valued by—

(1) individuals seeking religious freedom who settled in the American colonies;

(2) the founders of the United States; and

(3) Thomas Jefferson, who wrote in his letter to the Society of the Methodist Episcopal Church at New London, Connecticut, dated February 4, 1809, that “[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprizes of the civil authority”;

Whereas the Virginia Statute for Religious Freedom was—

(1) drafted by Thomas Jefferson, who considered the Virginia Statute for Religious Freedom to be one of his greatest achievements;

(2) enacted on January 16, 1786; and

(3) the forerunner to the Free Exercise Clause of the First Amendment to the Constitution of the United States;

Whereas section 2(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6401(a)) states that—

(1) “[t]he right to freedom of religion undergirds the very origin and existence of the United States”; and

(2) religious freedom was established by the founders of the United States “in law, as a fundamental right and as a pillar of our Nation”;

Whereas the role of religion in United States society and public life has a long and robust tradition;

Whereas individuals who have studied United States democracy from an international perspective, such as Alexis de Tocqueville, have noted that religion plays a central role in preserving the United States Government because religion provides the moral base required for democracy to succeed;

Whereas, in *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014), the United States Supreme Court affirmed that “people of many faiths may be united in a community of tolerance and devotion”;

Whereas the principle of religious freedom “has guided our Nation forward”, as expressed by the 44th President of the United States in his Presidential proclamation on Religious Freedom Day in 2011, and freedom of religion “is a universal human right to be protected here at home and across the globe”, as expressed by that President of the United States on Religious Freedom Day in 2013;

Whereas “[f]reedom of religion is a fundamental human right that must be upheld by every nation and guaranteed by every government”, as expressed by the 42nd President of the United States in his Presidential proclamation on Religious Freedom Day in 1999;

Whereas the First Amendment to the Constitution of the United States protects—

(1) the right of individuals to express freely and act on their religious beliefs; and

(2) individuals from coercion to profess or act on a religious belief to which they do not adhere;

Whereas “our laws and institutions should not impede or hinder but rather should protect and preserve fundamental religious liberties”, as expressed by the 42nd President of

the United States in his remarks accompanying the signing of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb et seq.);

Whereas for countless people of the United States, faith is an integral part of every aspect of daily life and is not limited to their homes, houses of worship, or doctrinal creeds;

Whereas “religious faith has inspired many of our fellow citizens to help build a better Nation” in which “people of faith continue to wage a determined campaign to meet needs and fight suffering”, as expressed by the 43rd President of the United States in his Presidential proclamation on Religious Freedom Day in 2003;

Whereas “from its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution”, as noted in section 2(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6401(a));

Whereas Thomas Jefferson wrote—

(1) in 1798 that each right encompassed in the First Amendment to the United States Constitution is dependent on the other rights described in that Amendment, “thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press: insomuch, that whatever violated either, throws down the sanctuary which covers the others”; and

(2) in 1822 that the constitutional freedom of religion is “the most inalienable and sacred of all human rights”;

Whereas religious freedom “has been integral to the preservation and development of the United States”, and “the free exercise of religion goes hand in hand with the preservation of our other rights”, as expressed by the 41st President of the United States in his Presidential proclamation on Religious Freedom Day in 1993; and

Whereas we “continue to proclaim the fundamental right of all peoples to believe and worship according to their own conscience, to affirm their beliefs openly and freely, and to practice their faith without fear or intimidation”, as expressed by the 42nd President of the United States in his Presidential proclamation on Religious Freedom Day in 1998: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) on Religious Freedom Day on January 16, 2017, honors the 231st anniversary of the enactment of the Virginia Statute for Religious Freedom; and

(2) affirms that—

(A) for individuals of any faith and individuals of no faith, religious freedom includes the right of an individual to live, work, associate, and worship in accordance with the beliefs of the individual;

(B) all people of the United States can be unified in supporting religious freedom, regardless of differing individual beliefs, because religious freedom is a fundamental human right; and

(C) “the American people will remain forever unshackled in matters of faith”, as expressed by the 44th President of the United States in his Presidential proclamation on Religious Freedom Day in 2012.

#### AUTHORITY FOR COMMITTEES TO MEET

Mr. MCCONNELL. Mr. President, I have two requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to Rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on January 17, 2017, at 2:15 p.m., in room SD-366 of the Dirksen Senate Office Building.

#### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on January 17, 2017, at 5 p.m., in room SD-430 of the Dirksen Senate Office Building to conduct a hearing entitled “Nomination of Betsy DeVos to serve as Secretary of Education.”

#### REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 115-1 AND 115-2

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on January 17, 2017, by the President of the United States: Extradition Treaty with the Republic of Serbia, Treaty Document No. 115-1; Extradition Treaty with the Government of the Republic of Kosovo, Treaty Document No. 115-2. I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President’s messages be printed in the RECORD.

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

The messages of the President are as follows:

#### *To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the United States of America and the Republic of Serbia (the “Treaty”), signed at Belgrade on August 15, 2016. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would replace the Treaty between the United States of America and the Kingdom of Serbia for the Mutual Extradition of Fugitives from Justice, signed October 25, 1901 (the “1901 Treaty”), which applies to the Republic of Serbia as a successor state to the former Socialist Federal Republic of Yugoslavia. The Treaty follows generally the form and content of other extradition treaties recently concluded by the United States. It would replace an outmoded list of extraditable of-

fenses with a modern “dual criminality” approach, which would enable extradition for such offenses as money laundering, cyber-related crimes, and other newer offenses not appearing on the 1901 Treaty list. The Treaty also provides that extradition shall not be refused based on the nationality of the person sought and contains a modernized “political offense” clause. Finally, the Treaty incorporates a series of procedural improvements to streamline and expedite the extradition process.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

BARACK OBAMA.

THE WHITE HOUSE, January 17, 2017.

#### *To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Kosovo (the “Treaty”), signed at Pristina on March 29, 2016. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would replace the Treaty between the United States of America and the Kingdom of Serbia for the Mutual Extradition of Fugitives from Justice, signed October 25, 1901 (the “1901 Treaty”), which applies to the Republic of Kosovo as a successor state to the former Socialist Federal Republic of Yugoslavia. The Treaty follows generally the form and content of other extradition treaties recently concluded by the United States. It would replace an outmoded list of extraditable offenses with a modern “dual criminality” approach, which would enable extradition for such offenses as money laundering, cyber-related crimes, and other newer offenses not appearing on the 1901 Treaty list. The Treaty also provides that extradition shall not be refused based on the nationality of the person sought and contains a modernized “political offense” clause. Finally, the Treaty incorporates a series of procedural improvements to streamline and expedite the extradition process.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

BARACK OBAMA.

THE WHITE HOUSE, January 17, 2017.

#### TALENT ACT OF 2017

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 39, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 39) to amend title 5, United States Code, to codify the Presidential Innovation Fellows Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

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

The bill (H.R. 39) was ordered to a third reading, was read the third time, and passed.

#### ORDERS FOR FRIDAY, JANUARY 20, 2017

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 4 p.m., Friday, January 20; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; finally, that following leader remarks, the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### PROGRAM

Mr. McCONNELL. Senators should gather in the Chamber at 10 a.m. on Friday for the inauguration. Rollcall votes are possible on Friday afternoon on Cabinet nominations.

#### ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order, following the remarks of the Democratic leader.

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

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

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

#### DEVOS NOMINATION HEARING

Mr. SCHUMER. Mr. President, I have just been told that the hearing for Ms. DeVos, nominee for Secretary of Education, which began at 5 p.m., much to our chagrin, is now going to be—the chairman of the committee, Senator ALEXANDER, my dear friend, has stated that there will be only one round of questions, 5 minutes each.

I tell my friend the majority leader, who just left, and my colleagues that this is not the way for comity: a hearing on a nominee with only one round of questioning, 5 minutes each, for a controversial nominee who has \$5 billion of investments, who has not filed her papers yet. We feel very strongly that there ought to be another hearing, and this will affect how the rest of the nominees will go forward because we need time on them.

I have never heard of anything like this—a major nominee with major controversy, not having filed her papers, and then the hearing only beginning at 5 p.m. today because my friend Senator ALEXANDER wouldn't switch the hearing to a different day, even though there is no rush. Now Senator ALEXANDER has just decreed as the hearing convened that there will be only one round of questioning, 5 minutes each.

I understand why my Republican colleagues are rushing through these nominees—and this one in particular. They are afraid of what the public will hear. They are afraid of what these nominees represent. President-Elect Trump has said he is going to drain the swamp. What does he have? A rigged Cabinet of billionaires and not the blue-collar people he has appealed to. How do we know they will represent the interests of the country, of the President-elect himself—at least what he said in his campaign? How do we know they are free of conflicts of interest? There is no way to know.

Tonight's hearing is an indication that the swamp is not close to getting

cleaned up; in fact, it is getting worse. I have not heard of any hearing like this.

I would respectfully urge my colleague, the chairman of the HELP Committee, which covers education, to have another hearing because this hearing is not close to being adequate; it is a mockery of the process.

I yield the floor.

#### ADJOURNMENT UNTIL FRIDAY, JANUARY 20, 2017, AT 4 P.M.

The PRESIDING OFFICER. The Senate stands adjourned until 4 p.m. on Friday, January 20, 2017.

Thereupon, the Senate, at 6:05 p.m., adjourned until Friday, January 20, 2017, at 4 p.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### STATE JUSTICE INSTITUTE

GAYLE A. NACHTIGAL, OF OREGON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2018. (REAPPOINTMENT)

##### COMMODITY FUTURES TRADING COMMISSION

CHRISTOPHER JAMES BRUMMER, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING JUNE 19, 2021. VICE MARK P. WETJEN, TERM EXPIRED.

BRIAN D. QUINTENZ, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2020. VICE SCOTT O'MALLIA, RESIGNED.

##### UNITED STATES INTERNATIONAL TRADE COMMISSION

JASON E. KEARNS, OF COLORADO, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2024. VICE DEAN A. PINKERT, TERM EXPIRED.

##### DEPARTMENT OF STATE

TODD PHILIP HASKELL, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE CONGO.

##### UNITED STATES SENTENCING COMMISSION

CHARLES R. BREYER, OF CALIFORNIA, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2021. (REAPPOINTMENT)

DANNY C. REEVES, OF KENTUCKY, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2019. VICE RICARDO H. HINOJOSA, TERM EXPIRED.

# EXTENSIONS OF REMARKS

## PROVIDING FOR EXCEPTION TO LIMITATION AGAINST APPOINTMENT OF PERSONS AS SECRETARY OF DEFENSE WITHIN SEVEN YEARS OF RELIEF FROM ACTIVE DUTY

SPEECH OF

**HON. STEPHANIE N. MURPHY**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, January 13, 2017*

Mrs. MURPHY of Florida. Mr. Speaker, I rise—reluctantly—in opposition to S. 84.

There is a federal law, enacted as part of the National Security Act of 1947, providing that the Secretary of Defense shall be “appointed from civilian life by the President.” Originally, the law provided that the individual being considered for appointment to this position cannot have served as a commissioned officer in a regular component of the military within 10 years of his appointment as Secretary. In 2008, Congress amended the law from 10 years to seven years.

The law, which is rooted in the deeply American principle that civilians should exercise control over the military, does not provide for any waivers or exceptions. In the 70 years that this statutory restriction has been on the books, Congress has only once enacted legislation to suspend the restriction. In September 1950, in the first year of the Korean War, Congress—acting at the behest of President Truman—approved legislation to suspend the provision in order to enable General George Marshall, at the time an active-duty member of the military, to serve as Secretary of Defense. The 1950 law providing for the suspension referenced General Marshall by name and expressed the sense of Congress that “after General Marshall leaves the office of Secretary of Defense, no additional appointments of military men to that office shall be approved.”

This Congress is now being asked to provide a second exemption. President-elect Trump has nominated former General James Mattis—who was, by nearly all accounts, one of the nation’s most distinguished and capable military officers, inspiring loyalty from the men and women under his command—to serve as Secretary of Defense. Because General Mattis retired from active service within the last seven years, Congress must enact legislation suspending applicable law in order for General Mattis to become Secretary.

While the Constitution gives the Senate the sole power to confirm presidential nominees, we are not talking simply about a confirmation process here. To the contrary, we are also dealing the enactment of significant, potentially precedent-setting legislation. That means that both the Senate and the House must approve the bill authorizing the exception before it is sent to the president for signature. It is up to each chamber to determine whether General Mattis is uniquely qualified to serve as Sec-

retary of Defense, such that legislation suspending generally applicable law would be warranted.

General Mattis testified before the Senate Armed Services Committee, and was fully prepared to testify before the House Armed Services Committee. However, despite General Mattis’ willingness to appear before the House Armed Services Committee, the president-elect’s transition team declined to make him available to testify.

This decision is difficult to fathom, and strikes me as an unforced error. It is highly likely that, were General Mattis to testify, the House Armed Services Committee would conclude in bipartisan fashion that approving legislation granting an exception to General Mattis is appropriate. I, personally, would be likely to support an exception, in light of General Mattis’ impeccable record of service.

But I cannot in good conscience support legislation granting an exemption without the House Armed Services Committee having had the opportunity to speak with General Mattis, to ask him about his views on civilian-military relations and other issues related to our national defense, and to take the full measure of the man. To reiterate, based on everything I know about General Mattis, he would have passed this test with flying colors.

We are a nation of laws. We abide by those laws whether they are convenient or not. Federal law, in place for many decades, prohibits a former military officer within seven years of his departure from active military service from being appointed as Secretary of Defense. We can debate whether this law should be modified, but unless and until it is, it remains the law. Congress can, as it has on one previous occasion, enact legislation to suspend this law. As long as the law remains on the books, it stands to reason that exceptions to the law should be granted only in exceptional circumstances, where the individual to be appointed is uniquely qualified in light of all the circumstances. The House Armed Services Committee cannot reasonably be expected to make such a determination without at least having had an opportunity to pose questions to that individual.

My hope is that the president-elect’s transition team would reconsider its decision not to authorize General Mattis to testify before the House Armed Services Committee, that General Mattis would so testify (as he is prepared to do), and that the Committee would act expeditiously on legislation to exempt General Mattis—and Mr. Mattis alone, which the broadly-worded legislation before us does not do—from generally applicable federal law.

the motion on ordering the previous question to H. Res. 40.

If I were present, I would have voted no on roll call number 33 to H. Res. 40.

If I were present, I would have voted yes on roll call number 34 to H.R. 39.

## TRIBUTE TO MARLENE JOHNSON-ODOM

**HON. GWEN MOORE**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 17, 2017*

Ms. MOORE. Mr. Speaker, I rise today to pay tribute to my friend Marlene Johnson-Odom. She served as alderwoman on the City of Milwaukee Common Council for the sixth aldermanic district for more than 24 years. Ms. Johnson-Odom passed away on January 9, 2017.

Marlene Johnson-Odom was a lifelong Milwaukee resident. She was a product of the public school system and a fellow graduate of North Division High School. Marlene received a Bachelor of Science degree from the University of Wisconsin-Milwaukee.

Prior to becoming an elected official, Ms. Johnson-Odom worked for Milwaukee Public Schools and was TV Hostess at Channel 18, a local television station. Ms. Johnson-Odom succeeded her first husband Ben Johnson on the Common Council and was known as a quiet but effective leader. While serving on the Common Council, one of the achievements of which she was most proud was the renaming of 3rd Street to Martin Luther King Drive. Always approachable, Marlene provided outstanding service to her constituents.

Ms. Johnson-Odom was always extremely involved in the community and served on numerous boards and commissions including: Milwaukee Area Technical College Board, United Way Board of Directors, Black Women’s Network and Pabst Theater Board.

Ms. Johnson-Odom leaves behind 3 children: Jan Johnson Carlyle, Paula Darling and Jay Johnson, 2 grandchildren: Amber Brown and Ellis Johnson, 8 great-grandchildren and a host of other relatives and friends to mourn her passing. She leaves a strong legacy of leadership for her children and grandchildren to model.

Mr. Speaker, Marlene was my friend and a Milwaukee and Wisconsin treasure and I valued her service to the 4th Congressional District. I urge you and my colleagues in the U.S. House of Representatives to join me in a salute to the late Marlene Johnson-Odom.

## PERSONAL EXPLANATION

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, January 17, 2017*

Ms. LEE. Mr. Speaker, if I were present, I would have voted no on roll call number 32 on

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S323–S346*

**Measures Introduced:** Thirty bills and two resolutions were introduced, as follows: S. 147–176, S.J. Res. 5, and S. Con. Res. 5. **Pages S342–43**

#### Measures Reported:

Special Report entitled “Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2017”. (S. Rept. No. 115–1) **Pages S341–42**

#### Measures Passed:

**GAO Access and Oversight Act:** Committee on Homeland Security and Governmental Affairs was discharged from further consideration of H.R. 72, to ensure the Government Accountability Office has adequate access to information, and the bill was then passed by a unanimous vote of 99 yeas (Vote No. 28). **Pages S333–35**

**TALENT Act:** Senate passed H.R. 39, to amend title 5, United States Code, to codify the Presidential Innovation Fellows Program. **Pages S345–46**

**Removal of Injunction of Secrecy:** The injunction of secrecy was removed from the following treaties:

Extradition Treaty with the Republic of Serbia (Treaty Doc. No. 115–1); and

Extradition Treaty with the Republic of Kosovo (Treaty Doc. No. 115–2).

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Page S345**

**Nominations Received:** Senate received the following nominations:

Gayle A. Nachtigal, of Oregon, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 2018.

Christopher James Brummer, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission for a term expiring June 19, 2021.

Brian D. Quintenz, of the District of Columbia, to be a Commissioner of the Commodity Futures

Trading Commission for a term expiring April 13, 2020.

Jason E. Kearns, of Colorado, to be a Member of the United States International Trade Commission for the term expiring December 16, 2024.

Todd Philip Haskell, of Florida, to be Ambassador to the Republic of the Congo.

Charles R. Breyer, of California, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2021.

Danny C. Reeves, of Kentucky, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2019. **Page S346**

**Messages from the House:** **Page S341**

**Measures Referred:** **Page S341**

**Additional Cosponsors:** **Page S343**

**Statements on Introduced Bills/Resolutions:** **Pages S343–45**

**Additional Statements:** **Page S341**

**Authorities for Committees to Meet:** **Page S345**

**Record Votes:** One record vote was taken today. (Total—28) **Page S335**

**Adjournment:** Senate convened at 3 p.m. and adjourned at 6:05 p.m., until 4 p.m. on Friday, January 20, 2017. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S346.)

### Committee Meetings

(Committees not listed did not meet)

#### NOMINATION

**Committee on Energy and Natural Resources:** Committee concluded a hearing to examine the nomination of Ryan Zinke, of Montana, to be Secretary of the Interior, after the nominee, who was introduced by Senators Daines and Tester, testified and answered questions in his own behalf.

#### NOMINATION

**Committee on Health, Education, Labor, and Pensions:** Committee concluded a hearing to examine the



nomination of Betsy DeVos, of Michigan, to be Secretary of Education, after the nominee, who was introduced by Senator Scott and former Senator Joe

Lieberman, testified and answered questions in her own behalf.

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# House of Representatives

## *Chamber Action*

**Public Bills and Resolutions Introduced:** 7 public bills, H.R. 582–588, were introduced. **Page H552**

**Additional Cosponsors:** **Page H553**

**Reports Filed:** There were no reports filed today.

**Speaker:** Read a letter from the Speaker wherein he appointed Representative Simpson to act as Speaker pro tempore for today. **Page H551**

**Board of Regents of the Smithsonian Institution—Appointment:** The Chair announced the Speaker's appointment of the following Member on the part of the House to the Board of Regents of the Smithsonian Institution: Representative Matsui. **Page H551**

**John F. Kennedy Center for the Performing Arts—Appointment:** The Chair announced the Speaker's appointment of the following Member on the part of the House to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Representative Kennedy. **Page H551**

**John F. Kennedy Centennial Commission—Appointment:** The Chair announced the Speaker's appointment of the following Members on the part of the House to the John F. Kennedy Centennial Commission: Representatives McCarthy and Stefanik. **Page H551**

**Commission on Civil Rights—Reappointment:** The Chair announced the Speaker's reappointment of the following individual on the part of the House to the Commission on Civil Rights for a term expiring December 15, 2022: Upon the recommendation of the Minority Leader: Mr. Michael Yaki, San Francisco, CA. **Page H551**

**Quorum Calls—Votes:** There were no yea-and-nay votes, and there were no recorded votes. There were no quorum calls.

**Adjournment:** The House met at 12 noon and adjourned at 12:04 p.m.

## *Committee Meetings*

No hearings were held.

## COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 18, 2017

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Commerce, Science, and Transportation:* to hold hearings to examine the nomination of Wilbur L. Ross, Jr., to be Secretary of Commerce, 10 a.m., SD–G50.

*Committee on Environment and Public Works:* to hold hearings to examine the nomination of Scott Pruitt, of Oklahoma, to be Administrator of the Environmental Protection Agency, 10 a.m., SD–406.

*Committee on Foreign Relations:* to hold hearings to examine the nomination of Nikki R. Haley, of South Carolina, to be the Representative of the United States of America to the United Nations, with the rank and status of Ambassador, and the Representative of the United States of America in the Security Council of the United Nations, and to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Representative to the United Nations, 10:10 a.m., SD–419.

*Committee on Health, Education, Labor, and Pensions:* to hold hearings to examine the nomination of Tom Price, of Georgia, to be Secretary of Health and Human Services, 10 a.m., SD–430.

### House

No hearings are scheduled.

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## CONGRESSIONAL PROGRAM AHEAD Week of January 18 through January 20, 2017

### Senate Chamber

During the balance of the week, Senate may consider any cleared legislative and executive business.

### Senate Committees

*(Committee meetings are open unless otherwise indicated)*

*Committee on Commerce, Science, and Transportation:* January 18, to hold hearings to examine the nomination of Wilbur L. Ross, Jr., to be Secretary of Commerce, 10 a.m., SD–G50.

*Committee on Energy and Natural Resources:* January 19, to hold hearings to examine the nomination of Rick Perry, of Texas, to be Secretary of Energy, 10 a.m., SD–366.

*Committee on Environment and Public Works:* January 18, to hold hearings to examine the nomination of Scott Pruitt, of Oklahoma, to be Administrator of the Environmental Protection Agency, 10 a.m., SD-406.

*Committee on Finance:* January 19, to hold hearings to examine the nomination of Steven Terner Mnuchin, to be Secretary of the Treasury, 10 a.m., SD-215.

*Committee on Foreign Relations:* January 18, to hold hearings to examine the nomination of Nikki R. Haley, of South Carolina, to be the Representative of the United States of America to the United Nations, with the rank and status of Ambassador, and the Representative of the United States of America in the Security Council of the United Nations, and to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as

Representative to the United Nations, 10:10 a.m., SD-419.

*Committee on Health, Education, Labor, and Pensions:* January 18, to hold hearings to examine the nomination of Tom Price, of Georgia, to be Secretary of Health and Human Services, 10 a.m., SD-430.

*Committee on Homeland Security and Governmental Affairs:* January 19, Subcommittee on Regulatory Affairs and Federal Management, to hold hearings to examine improving small business input on Federal regulations, focusing on ideas for Congress and a new Administration, 10 a.m., SD-342.

### House Committees

No hearings are scheduled.

*Next Meeting of the SENATE*

4 p.m., Friday, January 20

## Senate Chamber

**Program for Friday:** Senate will be in a period of morning business.

*(At 10 a.m., Senators will meet in the Senate Chamber for the Inauguration of the President and Vice President of the United States.)*

*Next Meeting of the HOUSE OF REPRESENTATIVES*

10 a.m., Friday, January 20

## House Chamber

**Program for Friday:** Inauguration of the President and Vice President of the United States.

## Extensions of Remarks, as inserted in this issue

## HOUSE

Lee, Barbara, Calif., E71  
Moore, Gwen, Wisc., E71  
Murphy, Stephanie M., Fla., E71



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