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Senate

The Senate met at 12:30 p.m. and was called to order by the Honorable JAMES LANKFORD, a Senator from the State of Oklahoma.

PRAYER

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

Let us pray.

Eternal God, in these challenging days, our hearts are steadfast toward You. Lift from our lawmakers all discouragement, cynicism, and mistrust. Lead them safely to the refuge of Your choosing, for You desire to give them a future and a hope.

Lord, give our Senators the power to do Your will, as they more fully realize that they are servants of Heaven and stewards of Your mysteries. Provide them with the wisdom to make faith the litmus test by which they evaluate each action, as they refuse to deviate from the path of integrity.

Lord, keep them from being careless about their spiritual and moral growth, as You give them the courage and the grace to fulfill Your purposes.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 12, 2017.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES LANKFORD, a Senator from the State of Oklahoma, to perform the duties of the Chair.

ORRIN G. HATCH,
President pro tempore.

Mr. LANKFORD thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

OBAMACARE REPEAL

Mr. MCCONNELL. Mr. President, the Senate just passed the legislative tools needed to repeal and replace ObamaCare. This is a critical step forward—the first step toward bringing relief from this failed law. The resolution now goes to the House. They will take it up soon. The next step will then be the legislation to finally repeal ObamaCare and move us toward smarter health policies.

The repeal legislation will include a stable transition period as we work toward patient-centered health care. We plan to take on the replace challenge in manageable pieces with step-by-step reforms. We can begin to make important progress within that repeal legislation, and we will continue to work with the incoming administration and the House in developing what comes next.

There are other steps we can take as well, including important administrative steps like confirming TOM PRICE as Secretary of Health and Human Services and Seema Verma as CMS Administrator. They can start stabilizing the health insurance markets that ObamaCare has thrown into turmoil, and they can start bringing relief to the American people. There is a lot they can do.

There is lot we can do. We may not be responsible for ObamaCare and the harm it has done to so many, but we have been clear about our commitment to bringing relief from it. From skyrocketing premiums and deductibles to dwindling options on the exchanges, too many families don't know how they will continue to endure the consequences associated with ObamaCare. These families have called for a helping hand. They have called for Congress to listen to their concerns, and they have called for us to finally build a bridge away from ObamaCare and toward health policies that put them first. We just took a decisive step toward that goal last night.

Repealing and replacing ObamaCare is a big challenge. It isn't going to be easy. Nonetheless, we are committed to fulfilling our promise to the American people—and we will.

RECOGNITION OF THE MINORITY LEADER

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

NOMINATION OF REX TILLERSON

Mr. SCHUMER. Mr. President, I came to the floor yesterday to voice my serious concerns with some of the remarks made by the Secretary of State nominee, Rex Tillerson, in his hearing.

I was worried that his milquetoast posture toward Russia, especially his failure to support strong U.S. sanctions—existing or proposed—bespoke a fundamental misreading of the geopolitical climate and the true nature of our international security challenges.

I was worried that, as Secretary of State, he only promised to recuse himself from matters involving Exxon for a

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

period of 12 months. Exxon's interests overseas aren't going away after 1 year. That is not good enough to resolve what is, potentially, a massive conflict of interest.

I am worried that Mr. Tillerson, as CEO and chairman of ExxonMobil, conducted business with all three foreign state sponsors of terrorism through a foreign subsidiary in a way that allowed Exxon to evade U.S. sanctions. As the head of Exxon, Mr. Tillerson did business with the terrorism trifecta: Iran, Syria, and Sudan. This raises serious questions that the man who is nominated to be the face of the United States to the world has so much experience doing business with our most prominent and concerning adversaries.

At the hearing, under questions from the senior Senator from New Jersey and the Senator from Oregon, Mr. Tillerson denied having knowledge of these dealings and directed the Senators to seek more information from ExxonMobil itself. Three times he told the committee that he ''did not recall'' any of the details. Throughout the afternoon, it sounded like he was following the dodgeball rules for confirmation hearings: Dodge, dip, duck, dive, and dodge. In fact, he basically admitted it to the junior Senator from Virginia.

I just read in the Washington Post that, on three separate occasions, the SEC, or the Securities and Exchange Commission, wrote letters directed to Mr. Tillerson himself seeking more information on these undisclosed dealings during his tenure as CEO and chairman—once on January 6, 2006, once on May 4, 2006, and again on December 1, 2010.

In general, I like to give people the benefit of the doubt. But it gives me great concern that Mr. Tillerson says he has zero recollection of an SEC inquiry into his company's business dealings with foreign state sponsors of terrorism—real concern. He got three letters from the SEC on a matter of major, major importance that would concern the whole corporation—the giant ExxonMobil—and he says he doesn't recall. This is the kind of matter that should be handled and approved by an organization's most senior leader.

Mr. Tillerson presents himself as a hands-on manager. It defies credibility to believe he doesn't recall. This is extraordinarily troubling because either one of two things is true. Either Mr. Tillerson was aware of these SEC letters and was familiar with these dealings but didn't want to answer the questions honestly, or, indeed, he had no knowledge of consequential financial disclosures made by his own company. If we consider that, in concert with all the other things he claimed to have ''no knowledge of''—including the widely reported extrajudicial killings in the Philippines, whether or not Saudi Arabia was a human rights violator—imagine, he had no knowledge of whether Saudi Arabia was a human rights violator; people in a fifth grade world history class would know that—whether or not his company was engaged in lobbying against, or perhaps for, energy sanctions—then maybe Mr. Tillerson does not have the necessary management skills or knowledge base to be the chief diplomat of the United States of America, running a Department that is obviously worldwide, far-flung, and with thousands and thousands and thousands of employees.

Simply put, we need answers. What did Mr. Tillerson know and when did he know it? The American people expect their Secretary of State to be straightforward and honest with them—not coy, not dissembling. Most importantly, they expect him or her to have the interests of the American people and our friends and allies around the world at the forefront of their mind.

Unfortunately for Mr. Tillerson, and for this country, yesterday's hearings and today's reports raise more questions than answers. The American people deserve answers.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Democratic whip.

DACA AND BRIDGE ACT

Mr. DURBIN. Mr. President, in 8 days, just a short distance from this Senate Chamber, Donald Trump will be sworn in as the 45th President of the United States. On that date, January 20, 2017, the fate of more than 750,000 young American immigrants will hang in the balance. They will be waiting to learn if they have a place in America's future or whether they will lose their legal status to stay in the United States. For many of them, it is a period of the highest anxiety, wondering what is going to happen next.

It was 7 years ago that I sent a letter to President Obama. I had introduced the DREAM Act, which said that if you were brought to America as a child, an infant, or an adolescent, lived here all your life, went to school and did well, and had no criminal record of any consequences, we would give you a chance to stay. Over a period of time, you would be able to become legal in America—a citizen in America. Sixteen years ago, I introduced it, and we passed it once in the Senate, once in the House, and never, ever made it the law of the land.

I wrote to President Obama, with Senator Dick Lugar, Republican of Indiana, and said: Find some way, if you can, as President, to protect these young DREAMers, as we call them. And he did. It is called DACA, Deferred Action for Childhood Arrivals.

What it basically said is that if you qualify under the DREAM Act, you could pay a filing fee of almost $500, go through a criminal background check and interview, and, then, if you qualify, you will be given a 2-year temporary protection from deportation and the ability to work. So far, over 750,000 young people have come forward. They have made such a difference in their own lives, in the lives of their families, and even in our country.

I have come over 100 times to tell their stories, and I will tell another one today. But I want to also announce that today we have a significant bipartisan breakthrough for this Congress: Republican Senator LINDSEY GRAHAM of South Carolina and I have introduced the BRIDGE Act. The BRIDGE Act, which has bipartisan sponsorship, would say that even if we eliminated President Obama's Executive order, we would protect these young people from deportation and allow them to continue to work and study.

I want to thank Senator GRAHAM. He has been a terrific partner.

This is an issue which weighs heavily on my mind and conscience. We believe this is a reasonable way to extend this protection and to say to Congress in the meantime: Get to work. Roll up your sleeves. Pass a comprehensive immigration bill. Work with the new President, work with both sides, Democrats and Republicans, and come up with an approach.

I thank Senator GRAHAM for joining me in the introduction of this BRIDGE Act.

For the young people across America, I can tell you, I understand your fears. I understand your anxiety. There are many of us who are dedicated to making certain that this ends well for you and for your family.

There are pretty amazing young people who are in that category I have addressed. One of them is Jose Espinoza. At the age of 2, Jose Espinoza was brought here from Mexico. He grew up in the northwest suburbs of Chicago and became an excellent student. In high school, he was a member of the National Honor Society, and he graduated in the top 3 percent of his class. He was elected to the student council every year in high school, the treasurer, vice president, editor of the high school yearbook, mentored and taught physical education to a freshman class of 40 students. He was also captain of the varsity track and field team and a member of the soccer team and the school orchestra.

In his spare time, if there was any, Jose volunteered with the United Way, and as a result of his academic record and volunteer service, he received a college scholarship from the United Way.

Incidentally, DREAMers—undocumented—don't qualify for any Federal

assistance for their education, so they have to find it in other places. His work with the United Way helped to pay his way at the college. He went to the University of Illinois at Urbana-Champaign and received multiple academic awards and continued his volunteer service with Alpha Phi Omega, a national service fraternity. He received the Distinguished Service Key, the fraternity's highest award. He graduated with a bachelor of science in kinesiology and then went on to earn a master's degree in public health at the University of Illinois.

In his last semester of graduate school, President Obama announced the DACA Program, which I described earlier. He applied, signed up, and became part of that DACA Program.

What is he doing today with his master's degree, with his opportunity to work in fields of public health and such? He signed up for Teach For America. We know Teach For America is a national nonprofit organization that places talented recent college graduates in urban and rural schools that have a shortage of teachers. Jose is currently a high school physics and public health teacher in the city of Chicago.

He wrote me a letter, and he said:

DACA changed my life in more ways than I can ever explain. It has given me the power to help others, the freedom to travel, and the right to legally work without fear of deportation. Simply put, without DACA, I wouldn't exist for my students and my community.

If DACA is eliminated, what will happen to Jose? The day after DACA, he won't be able to teach. He could be deported back to Mexico, where he hasn't lived since he was a 2-year-old toddler. That would be a tragedy, not just for Jose and his family but for this Nation. This is a fine young man who, against great odds, undocumented, has written this amazing record in his young life. He is a giving person. He could be making a lot more money than his pay with Teach For America in an inner city school.

Do we need Jose Espinoza in America's future? I think we do. That is why I am happy that this BRIDGE Act would give him a chance and Congress a chance to address this issue of DREAMers. I hope President-Elect Trump will understand this and continue the DACA Program. If he decides to end the DACA Program, I hope his administration will work closely and rapidly with Congress to pass the BRIDGE Act into law.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

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

PROVIDING 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—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to S. 84.

The ACTING PRESIDENT pro tempore. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

Motion to proceed to S. 84, a bill 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 ACTING PRESIDENT pro tempore. The motion is nondebatable.

The question is on agreeing to the motion.

The motion was agreed to.

PROVIDING 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 ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 84) 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 ACTING PRESIDENT pro tempore. Under the provisions of Public Law 114–254, there will now be up to 10 hours of debate, equally divided between the two leaders or their designees.

Mr. MCCONNELL. Mr. President, we are on the Mattis waiver.

Anyone who would like to debate, please come over.

In the meantime, I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 15 minutes.

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

NOMINATION OF JEFF SESSIONS

Mr. BLUMENTHAL. Mr. President, the Senate is holding hearings on each of President-Elect Trump's nominees to his Cabinet. Traditionally, Presidents are accorded a very high level of deference on assembling their own team, in part because these nominees are directly accountable to the President. But they are accountable to the American people too.

No Cabinet member is more powerful or has more impact on the day-to-day lives of Americans than the Attorney General of the United States.

The Attorney General is, indeed, a general, in command of an army of thousands of lawyers whose words carry enormous weight and power. It is the weight and power of the people of the United States. He speaks for us. He charges defendants in our name. He has sweeping authority to bring criminal charges in all Federal offenses, enormous unreviewable discretion in cases ranging from minor misdemeanors to the most serious felonies. In every sense, as capital penalties can be sought for some of these crimes, he wields the power of life and death.

The Attorney General's authority is not only sweeping, it is uniquely independent of the President's Cabinet. His decisions must supersede partisan politics. In most cases, there is no recourse to overrule his decisions unless there is political interference. He is not just another government lawyer or even just another member of the President's Cabinet. He is the Nation's lawyer, and he must be the Nation's legal counsel and conscience.

The job of U.S. Attorney General at stake here is one that I know pretty well. Like some of my colleagues in this body, I served as U.S. attorney, the chief Federal prosecutor in Connecticut.

I reported to the U.S. Attorney General. For years afterward as a private litigator and then as attorney general of the State of Connecticut for 20 years, I fought alongside and sometimes against the U.S. Attorney General and the legal forces at his disposal. I have seen his power, or hers, firsthand. The power of this Attorney General is awesome, as is that of any Attorney General.

In the best of cases, they are inspiring too. Even as he protects the public from vicious and violent criminal offenders, his role is also to protect the innocent from unfounded charges that could shatter their lives even if they are acquitted. As Justice Robert Jackson, a former Attorney General himself, once said: His job is not to convict, but to assure justice is done.

So this job requires a singular level of intellect and integrity and nonpartisan but passionate devotion to the rule of law and an extraordinary sense of conscience. That is because he is responsible for so much more than prosecuting and preventing crime and ensuring public safety. He is responsible for aggressively upholding our Nation's sacred constitutional commitment to protecting individual rights and liberties and preventing infringement on them, even by the government itself, maybe especially by the government.

This responsibility for safeguarding equal justice under the law is particularly important today, at a time when those civil rights and freedoms are so much in peril. This historic moment demands a person whose life work, professional career, and record shows that he will make the guarantee under our Constitution of equal justice under law a core mandate of his tenure.

Having reviewed the full record and recent testimony, regrettably and respectfully, I cannot support the President-elect's nominee, our colleague and friend JEFF SESSIONS, for this job.

At his confirmation hearing, Senator SESSIONS simply said he would follow the law and he would obey it, but the Attorney General of the United States must be more than a follower. He must be a leader in protecting the essential constitutional rights and liberties. He must be a champion, a zealous advocate. He must actively pursue justice, not just passively follow or obey the law.

Senator SESSIONS' record reflects a hostility and antipathy—in fact, downright opposition—to civil rights and voting rights, women's health care and privacy rights, antidiscrimination measures, and religious freedom safeguards. He has prided himself on his vociferous opposition to immigration reform legislation, a measure that passed this body with 68 bipartisan votes, and a criminal justice reform bill that has attracted a group of 25 cosponsors, Democrats and Republicans. He even split with the majority of his own party to vote against reauthorizing the Violence Against Women Act. He opposed hate crime prohibitions. Senator SESSIONS' views and positions on these issues and others, which are critical to protecting and championing rights and liberties under our Constitution, are simply out of the mainstream. There is nothing in Senator SESSIONS' record, including his testimony before the Judiciary Committee this week, that indicates he will be the constitutional champion the Nation needs at this point in its history.

Equally important, the Attorney General must speak truth to power. He must be ready, willing, and able to say no to the President of the United States and ensure that the President is never above the law. Senator SESSIONS' record and testimony give me no confidence that he will fulfill this core task.

When I asked him about enforcement of cases against illegal conflicts of interest involving the President and his family, such as violations of the emoluments clause or the STOCK Act, he equivocated. When I asked him about appointing a special counsel to investigate criminal wrongdoing at Deutsche Bank, owed more than $300 million by Donald Trump, he equivocated. When I asked him about abstaining from voting on other Presidential nominees while he is in the Senate, he equivocated. Those answers give me no confidence that he will be the independent, nonpolitical law enforcer against conflicts of interest and official self-enrichment that the Nation needs now more than ever—at a moment when the incoming administration faces ethical and legal controversies that are unprecedented in scope and scale.

Senator SESSIONS' record over many years and his recent testimony fail to demonstrate the core commitments and convictions necessary in our next Attorney General.

Back in 1986, the Senate Judiciary Committee rejected Senator SESSIONS' nomination to a Federal judgeship due to remarks he made and actions he took in a position of public trust as U.S. attorney in Alabama. However, my position on his nomination is primarily based on his record since those hearings and less on what was considered at that time.

On voting rights, Senator SESSIONS has often condoned barriers to Americans exercising their franchise. He has been a leading opponent of provisions in the Voting Rights Act designed to ensure that African Americans can vote in places, such as his home State of Alabama, which have a unique history of racial segregation. He has advocated for needlessly restrictive and draconian voter ID laws, citing utterly debunked threats of rampant voter fraud as an excuse for curtailing the real and legitimate rights of entire groups of voters.

On privacy—very important—Senator SESSIONS has passionately opposed this longstanding American right, which is enshrined in five decades of Supreme Court precedent. It protects women's health care and personal decisions involving reproductive rights. At a time when these rights are facing an unprecedented assault, he has continued to condemn Roe v. Wade and the many court decisions upholding that case.

He is also supported by extremist groups like Operation Rescue that defend the murder of doctors and the vilification and criminalization of women. With him as Attorney General, American women would understandably feel less secure about those rights.

On religious freedom, Senator SESSIONS has advocated for using a religious test to determine which immigrants can enter this country. When this issue arose in committee, Senator SESSIONS was the only Senator—the only Senator—to argue forcefully for religious tests and against principles of religious liberty that have animated our Republic since its founding. With Senator SESSIONS as Attorney General, a Trump administration would enjoy a permanent green light for any racially or religiously discriminatory immigration policy that might appeal to him.

On citizenship, Senator SESSIONS has called for abolishing a time-honored tradition that dates back to reconstruction. Birthright citizenship is the distinctly American concept that anyone born on our soil is a citizen of our country. We do not exclude people from citizenship based on the nationality of their parents or grandparents. Senator SESSIONS disagrees, a position that most other Republicans think is extreme.

With Senator SESSIONS as Attorney General, the Trump administration would be encouraged in attempting to deport American citizens—who have raised families and spent their entire lives here—from the only country they have ever known.

Senator SESSIONS declined my invitation at his nomination hearing to exercise moral and legal leadership and demonstrate his resolve to serve as the Nation's legal conscience. He refused to reject the possibility of using information voluntarily provided by DACA applicants to deport them and their families. As a matter of fundamental fairness and due process, when a DREAMer has provided information to our government after being invited to come out of the shadows, this information should never be used to deport that person. With Senator SESSIONS as Attorney General, that sense of legal conscience would be lacking.

On issues of discrimination and equal protection, Senator SESSIONS has publicly opposed marriage equality, claiming it ''weakens marriage'' and even tried to eliminate protections for LGBT Americans contained in the Runaway and Homeless Youth and Trafficking Prevention Act. He has repeatedly voted against steps to enhance enforcement against hate crimes—violent assaults involving bigotry or bias based on race, religion, and sexual orientation. He even defended President-Elect Trump's shocking admission on video of his pattern of engaging in sexual assault.

Senator SESSIONS himself has said that public officials can be fairly judged by assessing who their supporters are. Senator SESSIONS is backed by groups with ties to White supremacists.

He has even accepted an award and repeated campaign donations from groups whose founder openly promotes the goal of maintaining a ''European American majority'' in our society. Neither award, nor many other important parts of Senator SESSIONS' record, was reported on the questionnaire he prepared for the Judiciary Committee.

I gave Senator SESSIONS an opportunity at the hearing earlier this week to repudiate these hate groups and racist individuals who have endorsed his nomination and supported him in the past. In fact, instead he doubled down, saying that a man who has accused African Americans of excessive criminality and American Muslims of extensive ties to terrorism was ''a most brilliant individual.''

So I reach my decision to oppose this nomination with regret because JEFF SESSIONS is a colleague and a friend to all of us. Indeed, he and I have a rapport. I have come to like and respect

him through a number of shared experiences in this building, traveling abroad, and outside.

We have common causes. He and I both support law enforcement professionals who serve our communities and the Nation with dedication and courage. They are never given sufficient thanks and appreciation.

He and I both believe that individual corporate criminal culpability should be pursued more vigorously. Individual corporate executives should be held accountable for the wrongdoing of corporations when they are criminally involved.

This job, this decision, this responsibility is different. Here, my disagreements stem from bedrock constitutional principles. While I could envision deferring to Presidential authority and supporting him for other positions, my objections to his nomination here relate specifically to this particular, essential, all-powerful job.

At this historic moment, there must be no doubt about the ironclad commitment of the Attorney General of the United States to the bedrock principle of equal justice under law, his resolve to be an independent voice, assuring that the President is never above the law, his determination to be a champion for all people of America and our constitutional principles that protect all people, and to be a legal conscience for the Nation.

Reviewing his record, I cannot assure the people of Connecticut or the country that JEFF SESSIONS would be a vigorous champion of these rights and liberties. Therefore, I stand in opposition to his nomination.

Mr. President, I yield the floor.

I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. Mr. President, I rise to strongly oppose this legislation concerning a waiver for General Mattis.

I know that all of my colleagues on the Armed Services Committee who just left the hearing on this very topic with General Mattis and this entire body take the oversight role of our committee very seriously. We take civilian control of the military as a fundamental constitutional principle of the Founding Fathers. Even George Washington put aside his commission 5 years before he became our Commander in Chief and became the President of the United States. When Congress in 1947 debated the National Security Act to create the Department of Defense and create the Secretary of Defense, they decided to imbue this idea of civilian control into the Secretary of Defense by law, by mandating that he had to be separated from the military at least 10 years before taking on the role of Secretary of Defense, enshrining again this notion that civilian control is so important to our democracy and our American values.

On Tuesday, the Armed Services Committee had a very compelling hearing. We had two experts testify about the reasons for civilian control and why they are still so important today. The importance of having a Secretary of Defense who brings a civilian perspective to this position and brings with him or her a breadth of views and experience—those views coming from a civilian are very important.

Second, they said it is very important not to politicize our officer ranks, meaning our senior, top military advisers jockeying for the next job as a political appointee. That undermines the functioning of the military, and they testified about countries where it has had such deleterious effects.

The third reason is concern about bias toward one service or another. Arguably, if one comes from a particular service, one may have preferences innately for that branch of service, which could undermine the strength of our military.

The fourth reason, which is really important in today's world, is the desire to model civilian control for other countries around the world that are struggling to become more democratic, less autocratic, and less militarily run.

Those are the four reasons given as to why civilian control of the military is so important. Dr. Cohen and Dr. Hicks both agreed—despite those four reasons—that from their perspective, it should be abrogated. Dr. Cohen said it was because the characteristics of the incoming administration gave him such concern that he needed to have someone like General Mattis and thought the qualities of General Mattis were important. Even Dr. Hicks said it was the qualities of General Mattis that were so unique and important, but she very importantly said: Never, though, should we say that it is time for a general to be the Secretary of Defense. In her perspective, it should never be that you need a general. So for her it was not the exigencies of circumstances; it was the specific characteristics of General Mattis.

Overwhelmingly, the Senators and the Members of the Armed Services Committee, myself included, have expressed enormous gratitude for the extraordinary service of General Mattis. That is not in debate. But if there is no civilian in all the world as of today at this moment who could meet the needs of the incoming administration, then who is to say that there will be no civilian in the future who could meet the needs of this administration, should they need another Secretary of Defense, or the next administration?

What we are doing today, inadvertently, because of a cherished notion we have toward this one nominee, is subverting the standard, and, in fact, this exception now can swallow the whole rule. If we are literally saying an exception could be made because of the nature of an administration and the nature of a nominee, we have literally swallowed the rule.

I think it is a historic mistake. I truly believe we are about to unwind something that has served this country well for the past 50 years. We are about to unwind it. Interestingly, the last time the Congress unwound it, they said: Never again.

They didn't say: If you have an urgency as we have now, which was the concern, according to these experts, that World War III was looming, the concern that we needed a well-known, well-loved general because of all the foreign policy worries of the moment with North Korea; they said: Never again.

I don't know why we are here. I really don't know why—because it is not the standard.

Now this is the world we are going to live in. President-Elect Trump will mainly have his foreign policy input from two four-star generals and a three-star general. So where is the diversity of opinion coming from? Where is that balance going to come from, the No. 1 reason the experts gave for why we have civilian control of the military—Tillerson?

Even General Marshall, if we remember history correctly, had the experience of being a former Secretary of State and head of the Red Cross, so he had civilian experience in addition to his military experience. Civilian control has very important constitutional reasons based on our democratic values, the balance of power, and how our democracy runs. Those principles are being gutted and ignored. We are not using the right standards, and I think it is a historic mistake.

As I stated, this has nothing to do with our particular nominee. These principles exist for a reason. It has enabled our country's success for decades and has kept our democracy safe. If we take this change in our laws lightly, as we are about to do today, when future Congresses—or even this same Congress 2 or 3 year from now—look at this and want to make the same exception, it will be much easier to do.

I will continue to oppose this waiver for any nominee who is not a civilian or who has not met the waiting period that is required by law, and I urge all of my colleagues to do the same. I urge them to vote no.

Ms. COLLINS. Mr. President, today I wish to support the legislative waiver required for retired General James Mattis to become the next Secretary of Defense.

The principle of civilian control of the military has been fundamental to the concept of American Government since the inception of our Republic. It was the Continental Congress that granted General George Washington his commission, and General Washington reported to that legislative body throughout the entire war.

At the conclusion of the war, General Washington was the most popular and important figure in America. He easily could have positioned himself as the leader of the American government and, in fact, was urged to do so by many. Instead, General Washington famously resigned his commission on December 23, 1783, thus firmly establishing the principle that, in this new country, ultimate authority over the Armed Forces would rest with democratically elected civilians. General Washington's noble act was the foundation of such an important tenet of our democracy that the scene is depicted in a magnificent painting by John Trumbull, which occupies a prominent position in the rotunda of the United States Capitol.

The principle of civilian control of the military was at the center of the debate when the structure of our Armed Forces was dramatically reorganized after World War II. A congressional consensus emerged from the military readiness failures of Pearl Harbor that the modern world required a more significant standing military force with a more centralized command structure. But harkening back to the precedent established by George Washington, it was imperative that this new structure have civilian leadership. This was especially concerning at the time, given the number of remarkable generals who had deservedly attained heroic status in the eyes of the American public and the free world. Thus, in 1947, Congress passed section 202 of the National Security Act, which provided that the Secretary of Defense needed to have at least a 10-year gap, later reduced to 7, from any military service.

Since that time, 16 of the past 24 Defense Secretaries have had some prior military service. If approved, however, Gen. Mattis would only be the second Defense Secretary to receive a congressional waiver of the law—the other being General George Marshall in 1950.

In order to examine this important history and review the wisdom of granting a waiver for Gen. Mattis, the Senate Armed Services Committee held a hearing exploring the issue of civilian control of the Armed Forces. After carefully reviewing the testimony from those hearings, I do support making an additional, one-time exception to the law in the specific case of James Mattis.

In 1950, the world was a tumultuous place, with a hot war in Korea coupled with the extraordinary risks associated with a growing cold war in the nuclear age. President Truman turned to General Marshall to serve as Secretary of Defense because his noted character and competence, combined with his experience and ability, made him an ideal fit for the unique challenges presented at that time.

Today the world is again a tumultuous place. The combination of the threat from terrorist organizations like ISIS and al Qaeda, as well as the threats emanating from countries such as Iran, North Korea, Russia, and China, has heightened tensions around the globe. And all our international challenges today take place against the backdrop of the knowledge that the world has a large and aging nuclear arsenal that could quickly create chaos in the wrong hands.

As was the case with Gen. Marshall, Gen. Mattis, with his exceptional character and competence and his remarkable skills and ability, is a fit for these dangerous times.

Over the course of his 44-year career in the Marine Corps, Gen. Mattis has earned a reputation as a warrior and commander who is beloved by soldiers and veterans alike. The ''warrior monk,'' as he is known in military circles, is a voracious reader and a student of history. He has served as a military commander at all levels and all over the world. His assignments have included a combat deployment during the Persian Gulf Wars and difficult leadership posts in both Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, where Mattis commanded the 1St Marine Division in the city of Fallujah.

His work over the past decade has demonstrated a deep appreciation for the challenges our country faces today. In 2006, Mattis coauthored the military's counterinsurgency manual with then-Army General David Petraeus. As an expert in counterinsurgency, Mattis understands the crucial role military power plays in conjunction with other civil instruments of national power, including diplomatic and economic efforts.

Between 2007 and 2010, while serving as commander of the now disestablished U.S. Joint Forces Command, Mattis gained experience in broad DOD policy and management at an organization focused on the transformation of U.S. military capabilities.

In 2010, I supported Gen. Mattis's nomination to serve as commander of U.S. Central Command, where he oversaw the wars in Iraq and Afghanistan and was responsible for an area which includes Syria, Iran, and Yemen. His experience at CENTCOM is a tremendous asset in developing a coherent strategy to address the threats posed by state actors and terrorist networks in the region and elsewhere around the world.

In 2015, he testified before the Senate Armed Services Committee on the United States' global challenges and offered insight to the committee on crafting a coherent, bipartisan national security strategy with an eye towards international diplomacy and alliances, defense budgeting, and military force size and capabilities.

Last year, he coedited a book on civil-military relations that explored the growing cultural gap between civilian society and the military, as well as the impact this lack of understanding may have on the civilian-military relationship.

Finally,I would note that Gen. Mattis has the support of three very capable and successful former Secretaries of Defense whose careers were either largely or entirely in the civilian workforce. Secretaries Cohen, Panetta, and Gates know as well as anyone what it takes to succeed in that position and the importance of civilian leadership of the military. Their unqualified support of Gen. Mattis carries considerable weight with me and further convinces me that, in this particular circumstance, a waiver is warranted.

Mr. CARDIN. Mr. President, civilian control of our military is one of the bedrock principles of American self-government. The National Security Act of 1947, U.S.C. Title 10 Section 113(a), stipulates that an individual ''may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.'' President-Elect Donald Trump's choice of retired U.S. Marine Corps General James N. Mattis violates that provision since he has only been out of the uniform for 3 years; thus, Congress will need to pass a waiver so that he can serve if confirmed.

I have considered this issue carefully, and I have listened to Gen. Mattis's testimony earlier today before the Senate Armed Services Committee. I believe Gen. Mattis is committed to the principle of civilian control of the military. I was reassured by his testimony this morning, and I will vote to grant the waiver. There is a precedent: in 1950, the Senate voted to confirm General George C. Marshall's as Secretary of Defense, despite the fact that he had been retired for only 5 years. Former Secretaries of Defense Donald H. Rumsfeld, Robert M. Gates, and Leon E. Panetta have expressed bipartisan support for Gen. Mattis. I am willing to vote for the waiver, as long as one nomination does not turn into a trend. There are particular times and circumstances in which granting the waiver may be appropriate, but the bedrock principle of civilian control of our military must not be eroded.

Mr. VAN HOLLEN. Mr. President, I oppose changing the law to allow a recently retired general to serve as Secretary of Defense. While I admire Gen, Mattis and I am grateful for his decades of service to our Nation, I believe that, except in a national emergency, we should abide by the longstanding principle of civilian control of the military enshrined in the National Security Act.

Civilian control of the military is a fundamental tenet of our American democracy. It was in Annapolis, MD that General George Washington resigned his military commission in 1783, after leading the Continental Army to secure America's independence. Washington believed that our new Nation could survive only with civilian leadership. Five years later, Washington returned to serve the Nation, as a civilian, as our first President. George Washington's example has been embodied in the statutory requirements of the National Security Act.

George C. Marshall, nominated by President Truman in 1950, was the only Secretary of Defense for whom Congress enacted an exception. In enacting the exception for General Marshall, Congress expressly emphasized that:

''the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Secretary of Defense in the future. It is hereby expressed as the sense of the Congress that after General Marshall leaves the office of secretary of defense, no additional appointments of military men to that office shall be approved.''

Congress should not cavalierly disregard the principle of civilian leadership of our military. I have no doubt that President-Elect Trump was briefed on the National Security Act's requirement, but chose to proceed notwithstanding the law and our Nation's tradition. President-Elect Trump's lack of regard for this law and the principle of civilian control of the military should be a matter of concern.

Our Founders' emphasis on civilian leadership distinguished the young United States from the other nations of the time. It remains an important bulwark of our democracy today.

My vote today is not against Gen. Mattis. It is a vote to uphold an important principle of our American democracy. Should Congress vote to waive this law at this moment in time, I will review the nomination of Gen. Mattis on its individual merits.

Mrs. GILLIBRAND. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

OBAMACARE REPEAL

Mr. HATCH. Mr. President, several years ago, Democrats in Congress pulled out all the stops to pass the so-called Affordable Care Act and force the system we now call ObamaCare on the American people. They passed the law on a purely partisan basis and without any regard for public opinion. Quite simply, it was one of the most blatant exercises in pure partisanship in our Nation's history. It deepened partisan divides in Washington and around the country and contributed to the cynicism many have about whether their government is actually paying attention to their needs. Worst of all, in the years since the passage of ObamaCare, the American people have been paying the price in the form of skyrocketing costs, fewer choices, burdensome mandates, and unfair taxes.

For 7 years, many of us in Congress—virtually all of us on the Republican side—have been working to right what has gone wrong under the Affordable Care Act. We have pledged to our constituents that, given the opportunity, we would repeal ObamaCare and replace it with reforms more worthy of the American people. Those promises are among the biggest reasons why we Republicans are now fortunate enough to find ourselves in control of Congress and, very soon, the White House.

Last night we took a big step in the effort to repeal and replace ObamaCare. With the budget resolution passed, many in Washington and in the media are talking about what happens next. We are hearing a lot of discussion about the timing of our repeal-and-replace efforts, with some arguing that we should hit the brakes and solve every problem in advance of taking another vote. My view is that the repeal of ObamaCare cannot wait. The American people need us to act now. While there is still some debate as to what our replacement plan should look like, a majority of Senators voted last night to give us the tools to take the next steps to repeal and replace ObamaCare. The American people have entrusted us with the power to do just that.

We could spend the next several months coming up with more slogans and analogies, but this is not a campaign. The elections have been won, and it is time to do what our constituents have sent us here to do. I am not saying we need to put off the replacement effort. On the contrary, I think it is important that the legislation we draft pursuant to the budget reconciliation instructions include as many sensible health reforms as possible, keeping in mind the limitations that exist with our rules and the necessary vote count.

We should definitely work on making the largest possible downpayment on the ObamaCare replacement with the budget reconciliation bill. That downpayment should include measures that give individuals and families more control over their health care decisions and empower States to do more of the heavy lifting when it comes to regulating health care. In addition, we need to provide for a smooth transition period so we can maintain some stability in the health insurance markets and ensure that we are not leaving Americans who have insurance under the current system out in the cold.

As chairman of one of the primary committees with jurisdiction over these matters, I have been working closely with my House counterparts—Chairman KEVIN BRADY of the House Ways and Means Committee and Chairman GREG WALDEN of the House Energy and Commerce Committee—to develop proposals on the matters that fall within our purviews. We have been talking with stakeholders throughout the country and working through the various problems that exist. That work will continue unabated as we work on the immediate repeal effort and into the future. I am quite certain that my friend who chairs the Senate HELP Committee has been similarly engaged in addressing the draconian insurance regulations that were imposed under ObamaCare, as well as the other parts of the law that are within that committee's jurisdiction.

In other words, the work to replace ObamaCare is ongoing, and we hope to have some initial elements ready to include in the budget reconciliation package. That work will continue once the repeal has been passed and signed into law so that we can help ensure that affordable health care options exist for Americans. We do not need to wait until every single replacement measure is drafted and agreed upon before moving forward. Instead, we need the incoming administration to add to our current efforts and work with us to produce a full replacement plan and then to execute it. I look forward to continuing to work with President-Elect Trump and his team.

The path forward on replacing ObamaCare could end up taking many forms. We could draft and pass a series of limited reforms to replace ObamaCare piece by piece or we could pull together a full and comprehensive replacement package that puts all the necessary changes into law at once. I think there are merits and potential pitfalls with either approach. That is something we need to consider as we move forward, but it is not a decision that needs to be made before we can keep the promises we all made to our constituents to repeal ObamaCare.

To be sure, replacing ObamaCare is going to be a difficult process; however, with a new and more cooperative administration in place, I have every confidence we can accomplish these important objectives without imposing artificial deadlines or goalposts or putting the repeal process on hold. All of this is possible so long as we remain committed to the principles that have guided most of our efforts thus far. For example, in my view, the new reforms need to be patient-centered, not government-driven. They need to recognize the reality of the marketplace and the benefits of competition. Perhaps most importantly, any suitable reforms need to put the States back in charge of regulating and overseeing health care policy. If the ObamaCare experience has taught us anything, it is that when the Federal Government gets a hold of something that is as consequential as health care, it will overpromise results, overstep its authority, and overregulate the subject matter.

As I have said a number of times, Utah is not California or Massachusetts, and California and Massachusetts are not Utah. All of our States face different challenges and have different needs. There is no reason to begin with the premise that any single approach to health care policy is what is best for the entire country. That is why I, along with several of my colleagues, have been engaging with stakeholders at the State level for quite some time as we work to craft reforms and to put them in place. For example, next week the Senate Finance

Committee is hosting a roundtable discussion on Medicaid with some of the most prominent Governors in the country. I am pleased that Energy and Commerce chairman GREG WALDEN will join us for the discussion as well. This meeting and others like it will give States the opportunity to detail the challenges they face and how we can empower them to meet those challenges instead of dictating solutions from offices here in Washington, DC.

I believe all of my colleagues want to be judicious and methodical with this undertaking. No one wants to act recklessly and do even more damage to our Nation's health care system. Discussions and debates over the substance of our ObamaCare replacement should continue. As I said, they have been going on for some time now, and they are not going to stop. But after last night, we have the tools we need to take the first major step in this effort by repealing ObamaCare. In my view, we need to take that step now.

Republicans are united in our desire to repeal ObamaCare. We have the support of the American people to do just that, and I personally will do all I can to deliver on that promise. I hope our friends on the other side will work with us. If they will, I think we can come up with an approach toward health care that not only will work but will be better for our country but most importantly, better for our citizens, better for the States that will manage a lot better than we will here, and better for our citizens within those States.

Mr. President, I yield the floor.

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

Mr. REED. Mr. President, I rise today to discuss S. 84, a bill that would provide a one-time exception from the longstanding law that requires a member of the military to be retired from the armed services for at least 7 years before being appointed as Secretary of Defense. We are considering this legislation today because the President-elect's nominee for Secretary of Defense, General James Mattis, has only been retired from the U.S. Marine Corps for 3 years.

In considering the unique situation presented by this nomination, this week the Armed Services Committee held two hearings. The first hearing, on Tuesday, had a panel of two excellent outside witnesses who discussed the history of the retirement restriction law and the benefits and challenges of legislating an exception to that law. Then, this morning, the committee held a nomination hearing with General Mattis and examined his views on a wide range of defense challenges facing our country and the Defense Department.

General Mattis has a long and distinguished military career, and he is recognized by his peers as a thoughtful and strategic thinker. However, since its passage in 1947, the statutory requirement designed to protect civilian control of the Armed Forces has only been waived one other time. Therefore, I believe it is extremely important that we carefully consider the consequences of setting aside the law and the implications such a decision may have on the future of civilian and military relations.

Civilian control of the military is enshrined in our Constitution and dates back to George Washington and the Revolutionary War. This principle has distinguished our Nation from many other countries around the world, and it has helped ensure that our democracy remains in the hands of the people.

The National Security Act of 1947, which established the Department of Defense, included a provision prohibiting any individual ''within ten years'' of ''active duty as a commissioned officer in a regular component of the armed services'' from being appointed as the Secretary of Defense. However, in 1950, President Harry Truman nominated former Secretary of State and former Chief of Staff of the United States Army General George Marshall to serve as the Secretary of Defense, thus causing Congress to pass an exception to the statute.

While Congress ultimately waived the restriction for General Marshall, the law included a nonbinding section that stated: ''It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of the continuing appointments of military men to the office of Secretary of Defense in the future. It is hereby expressed as the sense of the Congress that after General Marshall leaves the office of the Secretary of Defense, no additional appointments of military men to that office shall be approved.''

Nearly 70 years later, Congress again must make a determination if an exception should be made in the case of General Mattis. Let me remind my colleagues why making this change is so significant. During our committee hearings, Dr. Kathleen Hicks astutely noted: ''The Defense Secretary position is unique in our system. Other than the President acting as commander in chief, the Secretary of Defense is the only civilian official in the operational chain of command to the Armed Forces. Unlike the President, however, he or she is not an elected official.''

As I stated during the committee's consideration of the waiver legislation, we must be very cautious about any actions, including this legislation, that may inadvertently politicize our Armed Forces. During this past Presidential election cycle, both Democrats and Republicans came dangerously close to compromising the nonpartisan nature of our military with the nominating convention speeches from recently retired general officers advocating for a candidate for President.

I am also concerned about providing a waiver for General Mattis in light of the fact that he will join other recently retired senior military officers who have been selected for high-ranking national security positions in the Trump Administration. Throughout our Nation's history, retired general officers have often held positions at the highest levels of government as civilians. In fact, a few have even been elected President.

What concerns me, however, is the total number of retired senior military officers chosen by the President-elect to lead organizations critical to our national security and the cumulative affect it may have on our overall national security policy. Specifically, there may be unintended consequences having so many senior leaders with similar military backgrounds crafting policy and making decisions as weighty as those facing the next administration.

In the course of our review of General Mattis' nomination, the reason most often cited in support of a waiver allowing him to serve is that a retired four-star general known for his warfighting skills and strategic judgment to lead the Department of Defense will counterbalance the President-elect's lack of defense and foreign policy experience. As Tom Ricks wrote recently in The New York Times: ''Usually I'd oppose having a general as Secretary of Defense, because it could undermine our tradition of civilian control of the military. But these are not normal times.''

Likewise, Dr. Eliot Cohen testified before the Senate Armed Services Committee earlier this week, and he argued that if it weren't for his deep concern about the Trump Administration, he would oppose the waiver for General Mattis. Specifically, he stated: ''There is no question in my mind that a Secretary Mattis would be a stabilizing and moderating force . . . and over time, helping to steer American foreign and security policy in a sound and sensible direction.''

If Congress provides an exception for General Mattis, we must be mindful of the precedent that action sets for such waivers in the future. The restriction was enacted into law for good reason, and General George Marshall is the only retired military officer to receive this exception.

Based on General Mattis' testimony this morning, as well as his decades of distinguished service in the U.S. Marine Corps, and weighing all of the other factors, I will support a waiver for him to serve as Secretary of Defense. General Mattis testified to the fact that the role of Congress does not end with the passage of this legislation. As Dr. Hicks stated, ''The United States Congress, the nation's statutes and courts, the professionalism of our Armed Forces, and the will of the people are critical safeguards against any perceived attempts to fundamentally alter the quality of civilian control of the military in this country.''

Any of us who support this bill have a profound duty to ensure that the Department of Defense and its leaders,

both civilian and military, are following and protecting the principles upon which this country is founded.

Let me be very clear. I will not support a waiver for any future nominees under the incoming administration or future administrations. I view this as a generational exception, as our bipartisan witnesses recommended. I would ask that my colleagues on both sides of the aisle make this same commitment. Indeed, I intend to propose reestablishing the original 10-year ban which was in place when the Defense Department was established. Restoring the threshold for service to 10 years would send a strong signal that this principle of civilian control of the military is essential to our Democratic system of government.

At this point I would ask if the chairman of the committee might engage in a colloquy. I do that first by thanking him for the extraordinarily fair, thoughtful, and careful way he has guided this nomination through the committee and here to the floor.

I wish to thank the Senator from Arizona for the thoughtful and thorough process we have had in considering the nomination of General Mattis. I think one of the high points was a hearing on civilian military relations with Eliot Cohen and Kathleen Hicks. Both witnesses emphasized that while they supported this waiver, it should be a rare, generational exception to ensure the integrity of civilian control of our military, which is the bedrock of our democracy.

I agree wholeheartedly with that assessment, and I would ask the chairman if he also agrees with that assessment.

Mr. MCCAIN. Mr. President, I would say that I also agree. I want to thank the Senator from Rhode Island for his leadership, and I want to thank him for setting the tenor and the environment that surrounds the Armed Services Committee, which resulted in the 24-to-3 vote today in the Armed Services Committee. Because of the relationship that we have, but also because of his leadership, we have a very bipartisan committee, which is vital to maintain, considering the awesome responsibilities we hold.

The Senator from Rhode Island has displayed time after time a willingness to work together for the good of the country. I think this is the latest example, even though he had significant reservations—which are valid—concerning the short period of transition from wearing the uniform to holding down the highest civilian position as far as defense of the Nation is concerned. I know he didn't reach this conclusion without a lot of thought, a lot of study, a lot of—as he has displayed—references to history; reasons for the origination of this legislation, which requires 7 years before an individual is eligible to be Secretary of Defense after leaving the military.

So I just wanted to thank the Senator from Rhode Island, and I look forward to an overwhelming vote.

Mr. President, could I ask the parliamentary situation as it is right now.

The PRESIDING OFFICER. The Senate is considering S. 84 with 10 hours equally divided.

Mr. MCCAIN. Mr. President, has a time been set for the vote?

The PRESIDING OFFICER. There is not yet an order for the vote.

Mr. REED. Mr. President, I believe I have the floor.

Mr. MCCAIN. I yield to my friend from Rhode Island.

Mr. REED. Mr. President, I believe the chairman does concur with me regarding the fact that this is a rare and generational exception; I think that is fair to say.

Mr. MCCAIN. Mr. President, is it accurate to say that 2:45 p.m. is a time that is being seriously considered?

Mr. REED. We hope so, and I think, if we recognize Senator MERKLEY for his comments, and then I think the chairman of the committee has comments, we would be on that schedule.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I be allowed 5 minutes prior to the vote, if the time of the vote is set, and the Senator from Rhode Island be given 5 minutes prior to that, in the case of the time of the vote being set.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. REED. Mr. President, I believe I still retain the floor.

Let me make the point that I appreciate very much the Senator from Arizona allowing me 5 minutes, but I will yield that 5 minutes so that at the end, the Senator from Arizona would have 5 minutes, and then I would suggest we recognize Senator MERKLEY so that we can conduct the vote at 2:45 p.m.

Mr. MCCAIN. Mr. President, I would like to modify my unanimous consent request that I be allowed 5 minutes prior to the vote.

ORDER OF PROCEDURE

Before I do that, however, I ask unanimous consent that the time until 2:45 p.m. be equally divided between the managers or their designees, and that following the use or yielding back of that time, the bill be read a third time, and the Senate vote on passage of S. 84; further, that following the disposition of S. 84, the Senate recess subject to the call of the Chair for the all-Members briefing.

So I would ask the Senator from Oregon how much time he needs.

Mr. MERKLEY. Less than 10 minutes.

Mr. MCCAIN. Mr. President, I am asking for a ruling on the unanimous consent request I just made.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I add to that unanimous consent request that I be given the final 5 minutes before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REED. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, we have a longstanding tradition in our country of civilian control of government and civilian control of the military. This was first symbolized by George Washington through his act of resigning as Commander in Chief for all of the Continental Army on December 23, 1783. It is a tradition, or a moment in time, that is preserved on the walls of the Rotunda where a mural depicts Washington's noble and selfless act.

Our early days were full of the warnings of a standing Army and of ongoing military control at high levels, and those ideas came from Thomas Jefferson and from Alexander Hamilton and from Samuel Adams. When we came to the point in our history where we realized that a continuing military force was necessary, we preserved the importance of civilian control.

We did so for a host of important reasons, which others have pointed out on this floor but I think are worth restating. It is important to have a Secretary of Defense who brings a broad world view that includes a civilian perspective to the position.

Second, it is important not to politicize our officer ranks and have them essentially competing to position themselves to hold this position of Secretary of Defense.

Third, we do not want the services competing against each other in order to hold this position. This is why the Joint Chiefs of Staff position is rotated on a specific schedule. And if we have a Secretary of Defense come from one military service, then another branch of service is going to say: Next time it should be our turn. The Marine Corps today, the Air Force tomorrow, the Army after that, and then the Navy. That is not the position we want to end up in.

We also know that across the world, countries wrestle with preserving civilian control; that is, preserving democratic republics in the face of the power of military machinery in their country, military organizations, and we see military coups and we see massive military influence.

It has been the desire of our country to model a republic that is of the people, by the people, and for the people, not a nation that becomes controlled by a massive concentration of power in the military. Now my colleagues—many of whom are very learned in the history of our country—have arisen to say that there is a set of special circumstances, a unique set of circumstances, that merit an exception, and they note that there was an exception once before in our history. That exception was the appointment of George C. Marshall to become Secretary of Defense in the time following

World War II. But think about how many circumstances we face in the world that can be put forward to be an exceptional time. It was exceptional when terrorists used planes to attack the Twin Towers in New York City and our Pentagon, and had not one plane gone down, the additional target may have been the Capitol or the White House. That was an exceptional moment. It is an exceptional moment when we are fighting Al Qaeda. It is an exceptional moment when we are fighting ISIS. It is an exceptional moment when Russia invades Ukraine and takes over Crimea. There is an exceptional moment almost continuously in the face of a complex and changing world.

So I stand on the side of maintaining the principle of civilian control. Each time we violate this principle, it is easier next time to say: It has been done before. But the conversation will not be ''We did it once half a century ago, and so we should do it again,'' it will be ''We did it twice, once quite recently when we weren't facing a world crisis. Nobody had invaded the United States. We had not just lost a couple hundred thousand folks fighting for our country in a world war.'' So the conversation will get easier and more fragile, and that is not the direction we should go.

It was Eisenhower who warned about the overreach of a military enterprise—the ''military industrial complex,'' as he referred to it. But one piece of our structure of government that has held back is to maintain that principle of civilian control. Can anyone in this room rise up and say that out of the thousands of experienced individuals who have both national security experience and civilian experience, there isn't one who currently meets either the 10- or 7-year standard of separation? I am sure there are hundreds who could meet that standard.

So here we are. If we could send a message to the President-elect: We reject your effort to eviscerate civilian control. Send us someone who is qualified. And if we feel that person is so far out of the reach of reason—which is what I have been hearing from my colleagues in private conversation, terrified that this President-elect will nominate somebody who basically is unhinged, that we have to seize on this moment to take this individual because this body won't have the courage to turn down and reject an unhinged individual nominated by this President-elect. That is a sad commentary on the leadership of this body. It is a sad commentary on what has become of the U.S. Senate that we wouldn't have the courage under our advice and consent power to turn down someone we saw as unfit. That is, in fact, how we are charged under this Constitution, under the advice and consent clause. It was Hamilton who laid out that it is our responsibility to determine whether an individual is of fit character or unfit character, and we would retain that power for any nomination that, in the collective judgment of this body, did not meet that standard.

So let's sustain the principle of civilian control and reject this change.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, in response to the Senator from Oregon who asked if there were not any people who were qualified to serve as Secretary of Defense, I am absolutely certain there are. Is there anyone as qualified as General Mattis? My answer to the Senator from Oregon is no. I have watched General Mattis for years. I have seen the way that enlisted and officers react to his leadership. I have seen the scholarly approach he has taken to war and to conflict.

I hope the Senator from Oregon will have at some point a chance to get to know him, and he will then appreciate the unique qualities of leadership that are much needed in these times where the outgoing President of the United States has left the world in a state of chaos because of an absolute failure of leadership, which is disgraceful. We now see an outgoing President of the United States who in 2009 inherited a world that was not being torn apart in the Middle East. The Chinese were not acting assertively in the South China Sea. The Russians had not dismembered Ukraine and taken Crimea, in gross violation of international law. All of those things have come about because of his presidency.

So now he comes to the floor and objects to one of the most highly qualified individuals and leaders in military history. I say to the Senator from Oregon: You are wrong.

I believe the overwhelming majority of this body will repudiate and cancel out his uninformed remarks.

Mr. President, in a few minutes we will vote on a historic piece of legislation. For just the second time in seven decades, the legislation before us would provide an exception to the law preventing any person from serving as Secretary of Defense within 7 years of Active-Duty service as a regular commissioned officer of the Armed Forces. This legislation would allow Gen. James Mattis—the President-elect's selection for Secretary of Defense, who retired from the Marine Corps 3 years ago—to serve in that office.

Earlier today, the Senate Armed Services Committee received testimony from General Mattis. Once again, he demonstrated exceptional command of the issues confronting the United States, the Department of Defense, and our military servicemembers, but he also showed something else—that his understanding of civil-military relations is deep and that his commitment to civilian control of the Armed Forces is ironclad.

General Mattis's character, judgment, and commitment to defending our Nation and its Constitution have earned him the trust of our next Commander in Chief, Members of Congress on both sides of the aisle, and so many who are serving in our Armed Forces. General Mattis is an exceptional public servant worthy of the exceptional consideration. That is why, directly following the conclusion of today's hearing, the Senate Armed Services Committee reported this legislation to the Senate with an overwhelming bipartisan vote of 24 to 3—I repeat: with an overwhelming vote of 24 to 3.

I am not saying that members of the Armed Services Committee are smarter than the Senator from Oregon, but I am saying that members of the Armed Services Committee have scrutinized—both sides of the aisle, Republican and Democrat, including the ranking member—have looked at General Mattis. Many of us have known him for years and years, as he has shown the outstanding characteristics of leadership that he has had the opportunity to display in his service to the country, and he was voted out by an overwhelming vote of 24 to 3. So obviously there are 24 people on the Armed Services Committee who believe in General Mattis and believe that this exception should be made, as opposed to 3 who share the view of the Senator from Oregon.

Mr. MERKLEY. I ask my colleague from Arizona if he will yield for a question.

Mr. MCCAIN. That is why, directly following the conclusion of today's hearing, the Senate Armed Services Committee reported this legislation to the Senate with a vote of 24 to 3. I urge this body to follow suit.

That said, it is important for future Senators to understand the context of our action here today. Civilian control of the Armed Forces has been a bedrock principle of American Government since our Revolution. A painting hanging in the Capitol Rotunda not far from this floor celebrates the legacy of George Washington, who voluntarily resigned his commission as commander of the Continental Army to the Congress. This principle is enshrined in our Constitution, which divides control of the Armed Forces among the President as Commander in Chief and the Congress as coequal branches of government.

Since then, Congress has adopted various provisions separating military and civilian positions. In the 19th century, for example, Congress prohibited an Army officer from accepting a civil office, more recently, in the National Security Act of 1947, and subsequent revisions, Congress's 7-year ''cooling off'' period for any person to serve as Secretary of Defense. It was only 3 years later, in 1950, that Congress granted GEN George Marshall an exemption to that law and the Senate confirmed him to be Secretary of Defense.

Indeed, the separation between civilian and military positions has not always been so clear. Twelve of our Nation's Presidents previously served as generals in the Armed Forces, and over the years, numerous high-ranking civilian officials in the Department of

Defense have had long careers in military service.

The basic responsibilities of civilian and military leaders are simple enough—for civilian leaders: to seek the best professional military advice while under no obligation to follow it; for military leaders: to provide candid counsel while recognizing civilians have the final say or, as General Mattis once observed, to insist on being heard and never insist on being obeyed. But the fact is that the relationship between civilian and military leaders is inherently and endlessly complex. It is a relationship of unequals who nonetheless share responsibility for the defense of the Nation. The stakes could not be higher. The gaps in mutual understanding are sometimes wide. Personalities often clash. And the unique features of the profession of arms and the peculiarities of service cultures often prove daunting for civilians who have never served in uniform.

Ultimately, the key to healthy civil-military relations and civilian control of the military is the oath that soldiers and statesmen share in common ''to protect and defend the Constitution.'' It is about the trust they have in one another to perform their respective duties in accordance with our republican system of government. It is about the candid exchange of views engendered by that trust and which is vital to effective decisionmaking. And it is about mutual respect and understanding. The proper balance of civil-military relations is difficult to achieve, and, as history has taught us, achieving that balance requires different leaders at different times.

I believe that in the dangerous times in which we live, General Mattis is the leader our Nation needs as Secretary of Defense. That is why, although I believe we must maintain safeguards of civilian leadership at the Department of Defense, I will support this legislation today and General Mattis' nomination to serve this Nation again as Secretary of Defense.

I want to assure my friend from Rhode Island, the ranking member of the Armed Services Committee, who has very serious concerns—I want to assure him that this is a one-time deal. I know the Senator from Rhode Island had deep concerns about this whole process we have been through. Yet I think he has put the interests of the Nation and placed his confidence in General Mattis as being so exceptional that the law that was passed back in 1947—there can be made one single exception to it.

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

The majority leader.

UNANIMOUS CONSENT REQUEST—H.R. 72

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 4:15 p.m. on Tuesday, January 17, the Committee on Homeland Security and Governmental Affairs be discharged and the Senate proceed to the consideration of H.R. 72; further, that there be 30 minutes of debate equally divided in the usual form, and that upon the use or yielding back of time, the bill be read a third time and the Senate vote on passage of H.R. 72 with no intervening action or debate; finally, that if passed, the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. MERKLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I agreed——

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Has time expired according to the previous UC?

Mr. MERKLEY. Mr. President, I believe I have the floor.

Mr. MCCONNELL. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MCCONNELL. Just to let everybody know, all I am doing is setting up a vote for Tuesday afternoon at 4:15. That is what I was asking consent on.

The PRESIDING OFFICER. Is there objection?

Mr. MERKLEY. I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. MERKLEY. I reserve the right to object.

Mr. President, I was very gracious in agreeing to a unanimous consent request that would grant me 10 minutes. That was cut short by the filibuster of my colleague, who repeatedly brought me into the conversation and refused to yield for my question. So I ask unanimous to have 2 minutes to close.

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the majority leader's request?

Mr. MERKLEY. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

REQUEST FOR COMMITTEES TO MEET

Mr. MCCONNELL. Mr. President, I have four requests for committees to meet during today's session of the Senate. They have the approval of the majority and minority leaders.

Mr. MERKLEY. I object.

The PRESIDING OFFICER. Duly noted.

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

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

Mr. MCCONNELL. 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 Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Kansas (Mr. MORAN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

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

The result was announced—yeas 81, nays 17, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—81

Barrasso	Flake	Nelson
Bennet	Franken	Paul
Blunt	Gardner	Perdue
Boozman	Graham	Peters
Brown	Grassley	Portman
Burr	Harris	Reed
Cantwell	Hassan	Risch
Capito	Hatch	Roberts
Cardin	Heinrich	Rounds
Carper	Heitkamp	Rubio
Casey	Heller	Sasse
Cassidy	Hirono	Schatz
Cochran	Hoeven	Schumer
Collins	Inhofe	Scott
Coons	Isakson	Sessions
Corker	Johnson	Shaheen
Cornyn	Kaine	Shelby
Cortez	Kennedy	Stabenow
Masto	King	Sullivan
Cotton	Klobuchar	Thune
Crapo	Lankford	Tillis
Cruz	Lee	Toomey
Daines	Manchin	Warner
Donnelly	McCain	Whitehouse
Enzi	McCaskill	Wicker
Ernst	McConnell	Young
Feinstein	Menendez	
Fischer	Murkowski	

NAYS—17

Baldwin	Leahy	Tester
Blumenthal	Markey	Udall
Booker	Merkley	Van Hollen
Duckworth	Murphy	Warren
Durbin	Murray	Wyden
Gillibrand	Sanders	

NOT VOTING—2

Alexander	Moran

The bill (S. 84) was passed, as follows:

S. 84

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

SECTION 1. EXCEPTION TO LIMITATION AGAINST APPOINTMENT OF PERSONS AS SECRETARY OF DEFENSE WITHIN SEVEN YEARS OF RELIEF FROM ACTIVE DUTY AS REGULAR COMMISSIONED OFFICERS OF THE ARMED FORCES.

(a) IN GENERAL.—Notwithstanding the second sentence of section 113(a) of title 10, United States Code, the first person appointed, by and with the advice and consent of the Senate, as Secretary of Defense after the date of the enactment of this Act may be a person who is, on the date of appointment, within seven years after relief, but not within three years after relief, from active duty as a commissioned officer of a regular component of the Armed Forces.

(b) LIMITED EXCEPTION.—This section applies only to the first person appointed as Secretary of Defense as described in subsection (a) after the date of the enactment of this Act, and to no other person.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands

in recess subject to the call of the Chair.

Thereupon, the Senate, at 3:13 p.m., recessed subject to the call of the Chair and reassembled at 4:17 p.m. when called to order by the Presiding Officer (Mr. CASSIDY).

The PRESIDING OFFICER. The Senator from Ohio.

INVESTIGATION ON INTERNET SEX TRAFFICKERS

Mr. PORTMAN. Mr. President, I rise today during Human Trafficking Awareness Week to talk about the scourge of human trafficking, and, specifically, about an investigation that the Senate has just concluded that matters to every single State represented in this Chamber and to every American.

We are told now that human trafficking, including sex trafficking, is a $150 billion a year industry. That makes it the second largest criminal enterprise in the world, behind the drug trade. Unfortunately, it is happening in all of our States, including my home State of Ohio. It is growing as a problem.

A couple of weeks ago, two people were arrested in my home town of Cincinnati in connection with sex trafficking. Police charged a women with luring an underage girl to commit a sex act with a 56-year-old man.

That was just 2 weeks after police in Blue Ash, OH, just up the road, broke up what they said was a sex trafficking ring at a hotel. Police said that two men and two women rented two rooms at a hotel, paying cash, and forced four different women to perform sex acts. The women were given crack cocaine and heroin, presumably to keep them dependent on their traffickers.

This is what I am hearing back home a lot when I talk to victims of sex trafficking. Typically, drugs are involved. In Ohio, it is usually heroin. These cases are alarming, and, unfortunately, we have reasons to believe that the problem is getting worse not better. The National Center for Missing and Exploited Children, really, the expert on this issue, particularly of kids who get involved in sex trafficking, reports an 846-percent increase in reports of suspected child sex trafficking from 2010 to 2015. That is an over 800-percent increase just in those 5 years.

The organization found this spike to be ''directly correlated to the increased use of the Internet to sell children for sex.'' So it is kind of the dark side of the Internet, isn't it. What I am told sometimes by survivors of trafficking is that they say: Rob, this has moved from the street corner to the cell phone. There is widespread evidence that sex trafficking is increasingly doing that all over our country.

In order to confront this problem, as chairman of the Permanent Subcommittee on Investigations, along with my colleague and ranking member Senator CLAIRE MCCASKILL, I opened a bipartisan investigation into sex traffickers and their use of the Internet. This investigation began about 2 years ago. The National Center for Missing & Exploited Children says that nearly three-quarters—73 percent—of all suspected child sex trafficking reports it receives from the general public through its cyber tip line are linked to one Web site—a single Web site. That Web site is called Backpage.com.

According to a leading anti-trafficking organization called Shared Hope International, ''[s]ervice providers working with child sex trafficking victims have reported that between 80 and 100 percent of their clients have been bought and sold on Backpage.com.'' Eighty to 100 percent of their clients have been bought and sold on Backpage.com.

Again, that is consistent with everything I have heard when I have been back home and spoken to and met with sex trafficking survivors. Backpage now operates in 97 countries, 934 cities worldwide. It is valued at well over half a billion dollars. According to an industry analysis, in 2013, 8 out of every 10 dollars spent on online commercial sex trafficking in the United States went to this one Web site, Backpage.

Others, by the way, have chosen not to engage in this. There have been a number of cases around the country, including in Ohio, where Backpage.com was used by traffickers to sell underage girls for sex.

Last spring, in my own State of Ohio, a man, who by the way has nine children of his own, was sentenced to 12 years in Federal prison for trafficking four underage girls who had run away from home in Akron and Canton, OH. He kept them locked in a hotel, supplied them with drugs like marijuana, heroin, and ecstasy, and sold them for sex on Backpage.com. When he was arrested, by the way, he was found with more than 8,000 bags of heroin.

Just this week, or a week later after that, a man from Fort Wayne, IN, was charged with human trafficking and child prostitution after he was arrested on his way to Ohio. His intention, police say, was to traffic a 14-year-old girl whom he had met on Facebook, raped, and whom he planned to sell on Backpage.com.

Backpage says it leads the industry in its screening of advertisements for illegal activity. In fact, Backpage's top lawyer has described their screening process as the key tool for disrupting and eventually ending human trafficking via the World Wide Web.

But despite these boasts, this Web site and its owners consistently have refused to cooperate with our investigation, with other investigations relating to lawsuits around the country. With regard to our situation, we subpoenaed them for the documents, and they still refused to provide the documents or to testify. As a result, as my colleagues will remember, this body, the Senate, for the first time in over 20 years, voted unanimously to pass a civil contempt citation to require them to supply the documents, to come forward with this information.

In August a Federal court order rejected Backpage's objection to that subpoena and compelled the company to turn over the subpoenaed documents to the subcommittee. Backpage appealed that and asked for a delay in that order. They took it all the way up to the Supreme Court of the United States. But their request was rejected. Since then, the subcommittee has been able to review the documents that have been submitted—over 1 million documents—including emails and other internal documents.

What we found was very troubling, to say the least. After reviewing the documents, the subcommittee published a staff report on Monday of this week that conclusively shows that Backpage has been more deeply complicit in online underage sex trafficking than anyone imagined. We reached three principle findings: first, that Backpage has knowingly covered up evidence of criminal activity by systematically editing its so-called adult ads; second, that Backpage knows that it facilitates prostitution and even child sex trafficking; and third, that despite the reported sale of Backpage to an undisclosed foreign company in 2014, taking them outside of the United States, the true owners of the company are the founders—James Larkin, Michael Lacey, and Carl Ferrer, their chief executive officer.

First, on the editing of ads, our report shows that Backpage has knowingly covered up evidence of crimes by systematically deleting words and images suggestive of illegal conduct, including of child sex trafficking. That editing process sanitized the content of millions of advertisements in order to hide important evidence from law enforcement.

In 2006, Backpage executives instructed staff to edit the text of adult ads, not to take them down but to edit them, which is exactly how they facilitated this type of trafficking, including child sex trafficking. By October 2010, Backpage executives had a formal process in place of both manual and automated deletion of incriminating words and phrases in ads.

Backpage CEO Carl Ferrer personally directed his employees to create an electronic filter to delete hundreds of words indicative of sex trafficking or prostitution from ads before they were published.

Again, this filter did not reject the ads because of the obvious illegal activity. They only edited the ads to try to cover it up. The filter did not change what was advertised, only the way it was advertised. So Backpage did nothing to try to stop this criminal activity. They facilitated it knowingly.

Why did they do that? Backpage executives were afraid they would erode their profits. It is a very profitable business. In Ferrer's words, they were

afraid they would ''piss off a lot'' of customers. What terms did they delete? Beginning in 2010, Backpage automatically deleted words including ''lolita''—referencing a 12-year-old girl in a book who was sold for sex—''teenage,'' ''rape,'' ''young,'' ''little girl,'' ''teen,'' ''fresh,'' ''innocent,'' ''school girl,'' and even ''amber alert''—and then published the edited versions of the ads on their Web site. Backpage also systematically deleted dozens of words related to prostitution.

This filter made these deletions before anyone at Backpage even looked at the ad. When law enforcement officials asked for more information about the suspicious ads, as they have routinely done, Backpage had already destroyed the original ad posted by the trafficker, and the evidence was gone.

So this notion that they were trying to help law enforcement is in the face of the fact that they actually destroyed the ads that had the evidence. We will never know for sure how many girls and women were victimized as a result. By Backpage's own estimate, the company was editing 70 to 80 percent of the ads in the adult section by late 2010.

Based on our best estimate, that means Backpage was editing more than half a million ads every year. Internal emails indicate the company was using the filter to some extent as late as 2014. We simply don't know if they are still using a filter. Eventually, Backpage reprogrammed its filters to reject some ads that contained certain egregious words suggestive of sex trafficking.

But the company did this by coaching its customers on how to post clean ads to help facilitate the criminal conduct of these traffickers. So they did reject some ads, but then they went back to the customer to say: This is how you could do it better. For example, starting in 2012, a user advertising sex with a teen would get this error message: ''Sorry, 'teen' is a banned term.''

With a one-word change to the ad, the user would be permitted to post the same ad, the same offer. In October 2011, Backpage CEO Carl Ferrer directed his technology consultant to create an error message when a user entered an age under 18 years old. Just like the word filter, the customer could just enter a new age that the ad would then post.

With regard to ownership, our investigation revealed that acting through a serious of domestic and international shell companies, Backpage's founders lent their CEO, Carl Ferrer, more than $600 million to buy the Web site. While Ferrer is the owner of Backpage, Backpage's previous owners retain near total debt equity in the company and continue to reap Backpage's profits in the form of their loan repayments.

They can also exercise control over Backpage's operations and financial affairs pursuant to the loans and to other agreements. The elaborate corporate structure under which Ferrer purchased Backpage through a series of foreign entities appears to provide absolutely no tax benefit—based on their accountant's information to us—and serves only to obscure Ferrer's U.S.-based ownership.

Based on all of these findings, it is clear that Backpage actively and knowingly covered up criminal sexual activity—sex trafficking—that was taking place on its Web site, all in order to increase its profits at the expense of the most vulnerable among us.

Backpage has not denied a word of these findings. Instead, several hours after our report was issued, the company closed what they call their adult section. They closed it down. Frankly, this just validates our findings.

The National Center for Missing & Exploited Children said this about Backpage's closure of its adult site: ''As a result [of this closure], a child is now less likely to be sold for sex on Backpage.com.''

No one is interested in shutting down legitimate commercial activity and speech, but we do want to put a stop to criminal activity.

I want to thank Senator MCCASKILL and her staff for their shoulder-to-shoulder work with my team on the Permanent Subcommittee on Investigations on this bipartisan investigation. I am also grateful to the members of the full committee and the Senate as a whole for unanimously supporting us as we pursued the enforcement of this subpoena against Backpage.com.

But we are not done. In the weeks and months ahead, I intend to explore whether potential legislative remedies are necessary and appropriate to end this type of facilitation of online sex trafficking.

At a hearing on the report on Tuesday, Backpage CEO and other company officials pled the Fifth Amendment, invoking the right against self-incrimination, rather than respond to questions about the report's findings.

The subcommittee also heard powerful testimony from parents whose children had been trafficked on Backpage.com. One mother talked about seeing her missing daughter's photograph on Backpage.com, frantically calling the company to tell them that was her daughter and to please take down the ad.

Their response: Did you post the ad?

Her response: Of course I didn't post the ad. That is my daughter. Please take it down.

Their response: We can only take it down if you paid for the ad.

I urge my colleagues to join me in this effort to ensure that does not happen again. What happens to these kids is not just tragic; it is evil.

I urge my colleagues to join me in reforming our laws so they work better to protect these children.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant 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.

WAIVER LEGISLATION FOR THE NEXT SECRETARY OF DEFENSE

Mr. LEAHY. Mr. President, the Senate is faced with a clear but complicated choice: support this expedited legislation that will pave the way for the confirmation of the next nominee to be Secretary of Defense or embroil one of the most consequential Cabinet positions—and with it the lives of thousands of men and women, as well as our national defense—in what would surely become a legal and legislative morass.

The Framers of the Constitution established that the Senate should provide advice and consent in the appointment of such Cabinet nominees. Congress subsequently, in the aftermath of World War II, sought to implement limitations on who could serve as Secretary of Defense, specifically, a cooling off period for members of the military nominated to serve as Secretary of Defense. The goal? To ensure that America's military would remain under civilian control. Circumventing these limitations requires an act of Congress. It has been done just once before, ironically almost immediately after Congress first enacted those limitations.

In Gen. Mattis, the President-elect—who is inexperienced in the world of military affairs and has sometimes proven rash in his public comments—has identified an able leader, who is tremendously popular and who has time and again shown himself worthy of the respect he has earned. I believe he will be a voice of reason in the Department of Defense and was encouraged to hear at his confirmation hearing this morning that he understands the importance of civilian control of our Defense Department and intends to preserve that tradition.

As Senator REED said earlier today in the Armed Services Committee, this is a once-in-a-generation waiver. Chairman MCCAIN similarly emphasized that he supports the law that this legislation would temporarily waive. I do not support efforts to change the law to permanently eliminate this statutory cooling off period. I am disappointed that the Senate majority has insisted on creating an expedited debate on such a critical question. I cannot support such an abrupt and accelerated revision of the law, even in the form of a one-time-only exemption. I couldn't support such a haphazard process, regardless of who the President, President-elect, or the nominee is.

As I said in December when the Senate considered the legislation that paved the way for this rushed process today, my vote on this bill does not foreshadow my vote on Gen. Mattis's nomination. I do believe that Gen. Mattis can respect the boundaries that

make our Armed Forces the strongest in the world. I believe Gen. Mattis will offer a critical perspective to an inexperienced and sometimes volatile incoming Commander in Chief. And those are reasons why I believe he may receive my support when the Senate considers his nomination.

ADDITIONAL STATEMENTS

TRIBUTE TO MACK COLE

● Mr. DAINES. Mr. President, this week, I have the distinct honor of recognizing Mack Cole of Treasure County, a third generation Montanan and dedicated public servant. Next month, Mr. Cole will celebrate 55 years of marriage with his wife, Judy. Mack and Judy Cole were married in February 10, 1962, in the town of Hysham, one of the many beautiful small communities in the quiet and peaceful high plains of eastern Montana.

After marriage, Mr. and Mrs. Cole spent 2 years in South America, providing much needed services while working for the Food for Peace Program in Brazil. Mr. Cole's experience in South America would serve as a trailhead for a lifelong journey of civic minded virtue and dedication on behalf of his fellow citizens.

In the late 1970s, Mr. and Mrs. Cole moved down the road, west on I–90 to Billings, MT, and they continued to build upon their honorable records of public service. During this chapter of his life, Mr. Cole worked for the Bureau of Indian Affairs in multiple western States and was involved in a wide variety of programs, including the development of irrigation projects. His work with the Bureau of Indian Affairs took him to Wyoming, Arizona, Utah, and Nevada. After retiring from the Bureau of Indian Affairs in 1993, the Coles moved back to the family ranch outside of Hysham.

Mr. Cole continued his distinguished record of public service by representing the people of Treasure County in the Montana Legislature, retiring from the State senate in 2003. During his time in legislature and even after retirement from public life, Mr. Cole has always been a steadfast supporter of responsible energy development, a critical component for the livelihood of many of his friends and neighbors.

His humble efforts to help provide food to the hungry, keep water flowing to farms and ranches ensuring energy was always ready at the flip of a switch make him a great Montanan. It is hard to find a better example of a fellow Montanan that is always ready to offer a helping hand.

I want to express my deep gratitude to Mr. Cole for his dedication and service to Montana and our country.●

REMEMBERING BYRON BIRDSALL

● Ms. MURKOWSKI. Mr. President, Alaskans tend to view our State as a big family, a family whose members come from many places but are united in our love and loyalty for our great land. And like any family, Alaska has been blessed with outstanding sons and daughters, distinguished in their own unique ways.

Today I wish to pay tribute to the memory of one such Alaskan, acclaimed watercolorist Byron Birdsall. Byron's passing on December 4, 2016, just 2 weeks shy of his 79th birthday, leaves a hole not just in the hearts of Alaskans, but in the art world itself. Given the indelible impact that Byron's prolific volume of work has had on Alaskans over the last 41 years, it is all the more impressive, considering that he lived the first half of his life outside the State.

Born in Buckeye, Arizona on December 18, 1937, Byron was raised in the suburbs of Los Angeles. After graduating with a bachelor's degree in history from Seattle Pacific College in 1959, Byron attended Stanford University. Following his 1960 marriage to his beloved Lynn, who succumbed to breast cancer in 1998, the couple set out to travel the world. The couple traveled to Africa to teach English and explored the Pacific, living in American Samoa for a few years. They then returned for a job in Seattle before arriving in Anchorage for a job at an advertising agency, which he soon quit to paint full time.

He recalled that it was 1975, during the pipeline boom that he was painting pictures. ''People started buying them so I quit work and started painting.'' Byron painted Alaska. He later explained to the Anchorage Daily News, ''Alaskans love Alaska. That's what they want to buy.''

Despite his talent in multiple mediums, including portraiture and oils, Byron will likely be best remembered for his prolific work in watercolor and landscapes, and, perhaps rightly so, as many of the pieces and prints so familiar to most Alaskans were in that format. His work is so highly regarded that one of his prints, ''McKinley Moonlight,'' was selected to serve as a background for Alaska's heirloom marriage certificates. As his wife Billie said, Byron was ''inspired by both the scenic beauty of Alaska and its people.''

Alaska Dispatch News writer David James described Byron's landscapes for a recent book Byron completed this year as ''rich with color and detail. His summer scenes explode with flowers, animals and sunlight, while his images of winter, where snow covers the ground and twilight darkens the sky, are alive with elaborate hues and stellar lighting that belie the notion of Alaska as a desolate wasteland for half the year.''

But I would be remiss if I did not take a moment to highlight for the record that Byron's work was not just the beautiful landscapes that Alaskans love so much. Rather, he helped catalog the history of the 49th State. Among the many honors we have as Senators is adorning our offices with artwork that represent our States. In my case, that includes two of Byron's prints proudly hanging in the hallway leading to my office. While the first is one of his traditional moonlit landscapes, the other is ''Anchorage Land Auction, 1915.'' It features a crowd huddled in what was then no more than a tent city near Ship Creek, in what would eventually become downtown Anchorage. Byron's painting reminds me not just of those pioneers who ventured to Alaska with the promise of a new life waiting to be carved out of the wilderness but, despite how far Alaska has come, how much raw potential still remains.

Despite our rich history and heritage, we are a young State, and many of our founding generation has been—and is now—passing from the scene. However, whether through his capturing of the 75th Annual Anchorage Fur Rendezvous Festival or ''Fur Rondy,'' featuring Rondy 10-time champion George Attla racing his sled dog team down 4th Avenue, or in his painting the historic devastation to downtown Anchorage following the 1964 earthquake, Byron was interpreting and memorializing the highs and lows of our history for generations of Alaskans to come.

I can think of no better way to end than with Byron's own words about his life: ''A dream come true. That is what Alaska has given to me. Incredible beauty for subject matter, and a receptive public have combined to allow me to do what I love best, painting all day, every day for more than 41 years.''

On behalf of grateful Alaskans and my fellow Senators, I extend my condolences to Billie and Byron's family. With Byron's passing, Alaska has lost a cultural icon, but his substantial body of work lives on forever.●

MESSAGE FROM THE HOUSE

At 12:53 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 bills, in which it requests the concurrence of the Senate:

H.R. 5. An act to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, to clarify the nature of judicial review of agency interpretations, to ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

H.R. 39. An act to amend title 5, United States Code, to codify the Presidential Innovation Fellows Program, and for other purposes.

MEASURES REFERRED

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

H.R. 5. An act to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, to clarify the nature of judicial review of agency interpretations, to ensure

complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–440. A communication from the Chief of the Planning and Regulatory Affairs Branch, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008'' (RIN0584–AD87) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Agriculture, Nutrition, and Forestry.

EC–441. A communication from the Supervisory Regulatory Analyst, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fees for Official Inspection and Official Weighing Services Under the United States Grain Standards Act (USGSA)'' (7 CFR Part 800) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Agriculture, Nutrition, and Forestry.

EC–442. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to realistic survivability testing of the OHIO Replacement Ballistic Missile Submarine (SSBN) (OSS–2017–0022); to the Committee on Armed Services.

EC–443. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, the quarterly exception Selected Acquisition Reports (SARs) as of September 30, 2016 (OSS–2017–0024); to the Committee on Armed Services.

EC–444. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report entitled ''Failure of Contractors, Participating under the DoD Test Program for a Comprehensive Subcontracting Plan, to Meet Their Negotiated Goals'' ; to the Committee on Armed Services.

EC–445. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Capital Rules: Implementation of Capital Requirements for Global Systemically Important Bank Holding Companies'' (RIN7100–AE49) received in the Office of the President of the Senate on January 10, 2017; to the Committee on Banking, Housing, and Urban Affairs.

EC–446. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program: Energy Conservation Standards for Residential Central Air Conditioners and Heat Pumps'' (RIN1904–AD37) received in the Office of the President of Senate on January 11, 2017; to the Committee on Energy and Natural Resources.

EC–447. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Efficiency Standards for the Design and Construction of New Federal Low-Rise Residential Buildings' Baseline Standards Update'' (RIN1904–AD56) received in the Office of the President of Senate on January 11, 2017; to the Committee on Energy and Natural Resources.

EC–448. A communication from the Chief of the Policy, Performance, and Management Programs Division, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Refuge-Specific Regulations; Public Use; Kenai National Wildlife Refuge'' (RIN1018–AX56) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Energy and Natural Resources.

EC–449. A communication from the Acting Chief of the Branch of Conservation and Communications, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Candidate Conservation Agreements With Assurances'' (RIN1018–BB25) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Energy and Natural Resources.

EC–450. A communication from the Division Chief of Regulatory Affairs, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Onshore Oil and Gas Operations; Federal and Indian Oil and Gas Leases; Onshore Oil and Gas Order Number 1, Approval of Operations'' (RIN1004–AE37) received in the Office of the President of the Senate on January 10, 2017; to the Committee on Energy and Natural Resources.

EC–451. A communication from the Director of Congressional Affairs, Office of General Counsel, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Update to Incorporate FOIA Improvement Act of 2016 Requirements'' ((RIN3150–AJ84) (NRC–2016–0171)) received in the Office of the President of the Senate on January 10, 2017; to the Committee on Environment and Public Works.

EC–452. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0026); to the Committee on Foreign Relations.

EC–453. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0025); to the Committee on Foreign Relations.

EC–454. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0021); to the Committee on Foreign Relations.

EC–455. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0018); to the Committee on Foreign Relations.

EC–456. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0017); to the Committee on Foreign Relations.

EC–457. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0019); to the Committee on Foreign Relations.

EC–458. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0016); to the Committee on Foreign Relations.

EC–459. A communication from the Senior Advisor, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, of the proposed sale or export of defense articles and/or defense services to a Middle East country (OSS–2017–0020); to the Committee on Foreign Relations.

EC–460. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the establishment of the danger pay allowance for Philippines: Mindanao Regions with Mindanao; Autonomous Region of Muslim Mindanao; Zamboanga Peninsula; Northern Mindanao; Davao Region; and Soccsksargen Caraga; to the Committee on Foreign Relations.

EC–461. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the elimination of the danger pay allowance; to the Committee on Foreign Relations.

EC–462. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''International Traffic in Arms Regulations: International Trade Data System, Reporting'' (RIN1400–AE07) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Foreign Relations.

EC–463. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–95; Introduction'' (FAC 2005–95) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–464. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Uniform Use of Line Items'' ((RIN9000–AM73) (FAC 2005–95)) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–465. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Acquisition Threshold for Special Emergency Procurement Authority'' ((RIN9000–AN18) (FAC 2005–95)) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–466. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contractor Employee Internal Confidentiality Agreements or Statements'' ((RIN9000–AN04) (FAC 2005–95)) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–467. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Contracts Under the Small Business Administration 8(a) Program'' ((RIN9000–AM68) (FAC 2005–95)) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–468. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Prohibition on Reimbursement for Congressional Investigations and Inquiries'' ((RIN9000–AM97) (FAC 2005–95)) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–469. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–95; Small Entity Compliance Guide'' (FAC 2005–95) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Homeland Security and Governmental Affairs.

EC–470. A communication from the Chair of the Securities and Exchange Commission, transmitting, pursuant to law, the Commission's fiscal year 2014 and fiscal year 2015 FAIR Act Commercial and Inherently Governmental Activities Inventory; to the Committee on Homeland Security and Governmental Affairs.

EC–471. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the annual report from the Attorney General to Congress relative to the Uniformed and Overseas Citizens Absentee Voting Act; to the Committee on Rules and Administration.

EC–472. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the annual report from the Attorney General to Congress relative to the Uniformed and Overseas Citizens Absentee Voting Act; to the Committee on Rules and Administration.

EC–473. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; American Fisheries Act; Amendment 113'' (RIN0648–BF54) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Commerce, Science, and Transportation.

EC–474. A communication from the Assistant Secretary, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Inflation Adjustment of Civil Monetary Penalties'' (RIN3072–AC66) received in the Office of the President of the Senate on January 11, 2017; to the Committee on Commerce, Science, and Transportation.

EC–475. A communication from the Chair of the Aerospace Safety Advisory Panel, National Aeronautics and Space Administration, transmitting, pursuant to law, the Panel's annual report for 2016; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–9. A petition from a citizen of the State of Minnesota relative to the Minnesota Presidential Certificate of Vote; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CORKER, from the Committee on Foreign Relations, with amendments:

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.

By Mr. McCAIN, from the Committee on Armed Services, without amendment:

S. 84. A bill 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.

EXECUTIVE REPORT OF COMMITTEE—TREATY

The following executive report of committee was submitted:

By Mr. CORKER, from the Committee on Foreign Relations.

Treaty Doc. 114–12: Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro (Ex. Rept. 115–1)

The Text of the committee-recommended resolution of advice and consent to ratification is as follows:

As reported by the Committee on Foreign Relations:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Declarations, an Understanding, and Conditions.

The Senate advises and consents to the ratification of the Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro, which was opened for signature at Brussels on May 19, 2016, and signed that day on behalf of the United States of America (the ''Protocol'') (Treaty Doc. 114–12), subject to the declarations of section 2 and the conditions of section 3.

Sec. 2. Declarations.

The advice and consent of the Senate under section 1 is subject to the following declarations:

(1) REAFFIRMATION THAT UNITED STATES MEMBERSHIP IN NATO REMAINS A VITAL NATIONAL SECURITY INTEREST OF THE UNITED STATES.—The Senate declares that—

(A) for more than 60 years the North Atlantic Treaty Organization (NATO) has served as the preeminent organization to defend the countries in the North Atlantic area against all external threats;

(B) through common action, the established democracies of North America and Europe that were joined in NATO persevered and prevailed in the task of ensuring the survival of democratic government in Europe and North America throughout the Cold War;

(C) NATO enhances the security of the United States by embedding European states in a process of cooperative security planning and by ensuring an ongoing and direct leadership role for the United States in European security affairs;

(D) the responsibility and financial burden of defending the democracies of Europe and North America can be more equitably shared through an alliance in which specific obligations and force goals are met by its members;

(E) the security and prosperity of the United States is enhanced by NATO's collective defense against aggression that may threaten the security of NATO members; and

(F) United States membership in NATO remains a vital national security interest of the United States.

(2) STRATEGIC RATIONALE FOR NATO ENLARGEMENT.—The Senate finds that—

(A) the United States and its NATO allies face continued threats to their stability and territorial integrity;

(B) an attack against Montenegro, or its destabilization arising from external subversion, would threaten the stability of Europe and jeopardize United States national security interests;

(C) Montenegro, having established a democratic government and having demonstrated a willingness to meet the requirements of membership, including those necessary to contribute to the defense of all NATO members, is in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(D) extending NATO membership to Montenegro will strengthen NATO, enhance stability in Southeast Europe, and advance the interests of the United States and its NATO allies.

(3) SUPPORT FOR NATO'S OPEN DOOR POLICY.—The policy of the United States is to support NATO's Open Door Policy that allows any European country to express its desire to join NATO and demonstrate its ability to meet the obligations of NATO membership.

(4) FUTURE CONSIDERATION OF CANDIDATES FOR MEMBERSHIP IN NATO.—

(A) SENATE FINDING.—The Senate finds that the United States will not support the accession to the North Atlantic Treaty of, or the invitation to begin accession talks with, any European state (other than Montenegro), unless—

(i) the President consults with the Senate consistent with Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties); and

(ii) the prospective NATO member can fulfill all of the obligations and responsibilities of membership, and the inclusion of such state in NATO would serve the overall political and strategic interests of NATO and the United States.

(B) REQUIREMENT FOR CONSENSUS AND RATIFICATION.—The Senate declares that no action or agreement other than a consensus decision by the full membership of NATO, approved by the national procedures of each NATO member, including, in the case of the United States, the requirements of Article II, section 2, clause 2 of the Constitution of the United States (relating to the advice and consent of the Senate to the making of treaties), will constitute a commitment to collective defense and consultations pursuant to Articles 4 and 5 of the North Atlantic Treaty.

(5) INFLUENCE OF NON-NATO MEMBERS ON NATO DECISIONS.—The Senate declares that any country that is not a member of NATO shall have no impact on decisions related to NATO enlargement.

(6) SUPPORT FOR 2014 WALES SUMMIT DEFENSE SPENDING BENCHMARK.—The Senate declares that all NATO members should continue to move towards the guideline outlined in the 2014 Wales Summit Declaration to spend a minimum of 2 percent of their Gross Domestic Product (GDP) on defense and 20 percent of their defense budgets on major equipment, including research and development, by 2024.

(7) SUPPORT FOR MONTENEGRO'S DEMOCRATIC REFORM PROCESS.—Montenegro has made difficult reforms and taken steps to address corruption. The United States and other NATO member states should not consider this important process complete and should continue to urge additional reforms.

Sec. 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) PRESIDENTIAL CERTIFICATION.—Prior to the deposit of the instrument of ratification, the President shall certify to the Senate as follows:

(A) The inclusion of Montenegro in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO.

(B) The inclusion of Montenegro in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

(2) ANNUAL REPORT ON NATO MEMBER DEFENSE SPENDING.—Not later than December 1 of each year during the 8-year period following the date of entry into force of the Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro, the President shall submit to the appropriate congressional committees a report, which shall be submitted in an unclassified form, but may be accompanied by a classified annex, and which shall contain the following information:

(A) The amount each NATO member spent on its national defense in each of the previous 5 years.

(B) The percentage of GDP for each of the previous 5 years that each NATO member spent on its national defense.

(C) The percentage of national defense spending for each of the previous 5 years that each NATO member spent on major equipment, including research and development.

(D) Details on the actions a NATO member has taken in the most recent year reported to move closer towards the NATO guideline outlined in the 2014 Wales Summit Declaration to spend a minimum of 2 percent of its GDP on national defense and 20 percent of its national defense budget on major equipment, including research and development, if a NATO member is below either guideline for the most recent year reported.

Sec. 4. Definitions.

In this resolution:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives.

(2) NATO MEMBERS.—The term ''NATO members'' means all countries that are parties to the North Atlantic Treaty.

(3) NON-NATO MEMBERS.—The term ''non-NATO members'' means all countries that are not parties to the North Atlantic Treaty.

(4) NORTH ATLANTIC AREA.—The term ''North Atlantic area'' means the area covered by Article 6 of the North Atlantic Treaty, as applied by the North Atlantic Council.

(5) NORTH ATLANTIC TREATY.—The term ''North Atlantic Treaty'' means the North Atlantic Treaty, signed at Washington April 4, 1949 (63 Stat. 2241; TIAS 1964), as amended.

(6) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro.

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. CRUZ (for himself, Mr. GRAHAM, Mr. RISCH, Mrs. CAPITO, Mr. ROUNDS, Mr. THUNE, Mr. HATCH, Mr. CRAPO, Mr. JOHNSON, Mr. BARRASSO, Mr. DAINES, Mr. ROBERTS, Mr. LEE, Mr. SULLIVAN, Mr. CORNYN, Mr. WICKER, Mr. COCHRAN, Mr. HOEVEN, Mr. MCCAIN, Mr. KENNEDY, Mr. MCCONNELL, and Mr. BLUNT):

S. 107. A bill to prohibit voluntary or assessed contributions to the United Nations until the President certifies to Congress that United Nations Security Council Resolution 2334 has been repealed; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Ms. KLOBUCHAR, Mr. PORTMAN, Mr. DONNELLY, Mr. YOUNG, Mr. CASEY, Mr. TOOMEY, Mrs. SHAHEEN, Mr. ISAKSON, and Mr. FRANKEN):

S. 108. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on medical devices; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. CASEY, Mr. BROWN, Mr. UDALL, Ms. HIRONO, Mr. FRANKEN, Mr. PETERS, Ms. KLOBUCHAR, Mr. COONS, Mr. DONNELLY, Mrs. SHAHEEN, Mrs. CAPITO, Mr. WICKER, Mr. COCHRAN, Mr. GARDNER, Mr. BOOZMAN, Ms. COLLINS, Mr. HOEVEN, Mr. BLUNT, Mr. BARRASSO, Mr. THUNE, Mr. MORAN, Mr. COTTON, Mrs. ERNST, Mr. DAINES, Mr. SCOTT, and Mr. YOUNG):

S. 109. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of pharmacist services; to the Committee on Finance.

By Ms. BALDWIN (for herself, Ms. MURKOWSKI, Mr. SULLIVAN, and Mr. BOOKER):

S. 110. A bill to require the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, to establish a constituent-driven program to provide a digital information platform capable of efficiently integrating coastal data with decision-support tools, training, and best practices and to support collection of priority coastal geospatial data to inform and improve local, State, regional, and Federal capacities to manage the coastal region, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HELLER (for himself and Ms. HIRONO):

S. 111. A bill to require the Secretary of Defense to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HELLER (for himself and Mrs. MURRAY):

S. 112. A bill to amend title 38, United States Code, to authorize per diem payments under comprehensive service programs for homeless veterans to furnish care to dependents of homeless veterans, and for other purposes; to the Committee on Veterans' Affairs.

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

S. 113. A bill to require the Secretary of Veterans Affairs to carry out a pilot program to increase the use of medical scribes to maximize the efficiency of physicians at medical facilities of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

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

S. 114. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to submit an annual report regarding performance awards and bonuses awarded to certain high-level employees of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. HELLER:

S. 115. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide for an operation on a live donor for purposes of conducting a transplant procedure for a veteran, and for other purposes; to the Committee on Veterans' Affairs.

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

S. 116. A bill to amend title 10, United States Code, to permit veterans who have a service-connected, permanent disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces entitled to such travel; to the Committee on Armed Services.

By Mr. DAINES (for himself and Mr. TESTER):

S. 117. A bill to designate a mountain peak in the State of Montana as ''Alex Diekmann Peak''; to the Committee on Energy and Natural Resources.

By Mr. LEE (for himself, Mrs. FISCHER, Mr. KING, Mrs. CAPITO, and Ms. COLLINS):

S. 118. A bill to make exclusive the authority of the Federal Government to regulate the labeling of products made in the United States and introduced in interstate or foreign commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself, Mr. BLUNT, Mr. INHOFE, Mr. CORNYN, Mr. CRUZ, Mrs. FISCHER, Mr. RUBIO, Mr. FLAKE, Mr. HATCH, and Mr. TILLIS):

S. 119. A bill to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. HELLER:

S. 120. A bill to provide for the creation of the Missing Armed Forces Personnel Records Collection at the National Archives, to require the expeditious public transmission to the Archivist and public disclosure of Missing Armed Forces Personnel records, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HELLER:

S. 121. A bill to establish the veterans' business outreach center program, to improve the programs for veterans of the Small Business Administration, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. HELLER (for himself, Ms. STABENOW, Mr. ISAKSON, and Mr. MENENDEZ):

S. 122. A bill to prevent homeowners from being forced to pay taxes on forgiven mortgage loan debt; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself, Mrs. FISCHER, Mr. SCHATZ, Mr. CORNYN, Mr. THUNE, and Mr. CRUZ):

S. 123. A bill to amend the Communications Act of 1934 to require multi-line telephone systems to have a default 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 Commerce, Science, and Transportation.

By Ms. KLOBUCHAR (for herself and Mr. GRASSLEY):

S. 124. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

By Ms. MURKOWSKI (for herself, Ms. CANTWELL, Mr. SULLIVAN, and Mr. HEINRICH):

S. 125. A bill to amend the Oil Pollution Act of 1990 to impose penalties and provide for the recovery of removal costs and damages in connection with certain discharges of oil from foreign offshore units, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DAINES (for himself, Mr. PAUL, and Mr. TESTER):

S. 126. A bill to amend the Real ID Act of 2005 to repeal provisions requiring uniform State driver's licenses and State identification cards, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. FLAKE:

S. 127. A bill to provide provisional protected presence to qualified individuals who came to the United States as children; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. DURBIN, Ms. MURKOWSKI, Mrs. FEINSTEIN, Mr. FLAKE, Mr. SCHUMER, and Ms. HARRIS):

S. 128. A bill to provide provisional protected presence to qualified individuals who came to the United States as children; to the Committee on the Judiciary.

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

S. 129. A bill to reauthorize and amend the National Sea Grant College Program Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. BALDWIN:

S. 130. A bill to require enforcement against misbranded milk alternatives; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself and Mr. SULLIVAN):

S. 131. A bill to provide for the exchange of certain National Forest System land and non-Federal land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 132. A bill to amend title 54, United States Code, to provide for congressional and State approval of national monuments and restrictions on the use of national monuments; to the Committee on Energy and Natural Resources.

By Mr. BURR:

S. 133. A bill to authorize appropriations for fiscal year 2017 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

By Mr. NELSON (for himself, Mrs. FISCHER, Ms. KLOBUCHAR, and Mr. BLUNT):

S. 134. A bill to expand the prohibition on misleading or inaccurate caller identification information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ISAKSON (for himself and Mr. PERDUE):

S. 135. A bill to redesignate Ocmulgee National Monument in the State of Georgia and revise its boundary, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON (for himself and Mr. PERDUE):

S. 136. A bill to adjust the boundary of the Kennesaw Mountain National Battlefield Park to include the Wallis House and Harriston Hill, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON:

S. 137. A bill to expand the boundary of Fort Frederica National Monument in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 138. A bill to impose sanctions on persons that threaten the peace or stability of Iraq or the Government of Iraq and to address the emergency in Syria, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. CORNYN, Mrs. GILLIBRAND, Mr. FLAKE, and Ms. KLOBUCHAR):

S. 139. A bill to implement the use of Rapid DNA instruments to inform decisions about pretrial release or detention and their conditions, to solve and prevent violent crimes and other crimes, to exonerate the innocent, to prevent DNA analysis backlogs, and for other purposes; to the Committee on the Judiciary.

By Mr. FLAKE (for himself and Mr. MCCAIN):

S. 140. A bill to amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to clarify the use of amounts in the WMAT Settlement Fund; to the Committee on Indian Affairs.

By Mr. PETERS (for himself, Mr. GARDNER, Mr. BOOKER, and Mr. WICKER):

S. 141. A bill to improve understanding and forecasting of space weather events, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY (for himself and Ms. KLOBUCHAR):

S. 142. A bill to expand certain empowerment zone provisions to communities receiving a Worker Adjustment and Retraining Notification Act notice, and for other purposes; to the Committee on Finance.

By Mr. CASEY (for himself, Mr. MORAN, Mr. BLUNT, Mr. COONS, and Mr. KAINE):

S. 143. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for amounts paid by a spouse of a member of the Armed Forces for a new State license or certification required by reason of a permanent change in the duty station of such member to another State; to the Committee on Finance.

By Mr. CASEY (for himself and Mrs. MURRAY):

S. 144. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of Promise Zones; to the Committee on Finance.

By Mr. HELLER:

S. 145. A bill to require the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials of strategic and critical importance to the economic and national security and manufacturing competitiveness of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 146. A bill to strengthen accountability for deployment of border security technology at the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LANKFORD (for himself and Mr. CASSIDY):

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; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. FISCHER (for herself and Mrs. ERNST):

S. Res. 12. A resolution expressing the sense of the Senate that clean water is a national priority, and that the June 29, 2015, Waters of the United States Rule should be withdrawn or vacated; to the Committee on Environment and Public Works.

By Mr. CORNYN (for himself, Mr. HATCH, Mr. LEE, Mr. SCOTT, and Mr. CRUZ):

S. Res. 13. A resolution recognizing the historical importance of Associate Justice Clarence Thomas; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself and Mr. SCOTT):

S. Res. 14. A resolution commending the Clemson University Tigers football team for winning the 2017 College Football Playoff National Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. PAUL, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 21, a bill to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

S. 30

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 30, a bill to extend the civil statute of limitations for victims of Federal sex offenses.

S. 68

At the request of Mr. CRUZ, the name of the Senator from Wisconsin (Mr. JOHNSON) was added as a cosponsor of S. 68, a bill to require the Secretary of State to submit a report to Congress on the designation of the Muslim Brotherhood as a foreign terrorist organization, and for other purposes.

S. 87

At the request of Mr. TOOMEY, the name of the Senator from South Dakota (Mr. ROUNDS) was added as a cosponsor 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. RES. 6

At the request of Mr. RUBIO, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Nevada (Ms. CORTEZ MASTO) 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.

AMENDMENT NO. 9

At the request of Ms. KLOBUCHAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 9 intended to be proposed to S. Con. Res. 3, a 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DAINES (for himself and Mr. TESTER):

S. 117. A bill to designate a mountain peak in the State of Montana as ''Alex Diekmann Peak''; to the Committee on Energy and Natural Resources.

Mr. DAINES. 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. 117

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 ''Alex Diekmann Peak Designation Act of 2017''.

SEC. 2. FINDINGS.

Congress finds that Alex Diekmann—

(1) was a loving father of two and an adoring husband who lived in Bozeman, Montana, where he was a renowned conservationist who dedicated his career to protecting some of the most outstanding natural and scenic resource areas of the Northern Rockies;

(2) was responsible during his unique conservation career for the protection of more than 50 distinct areas in the States of Montana, Wyoming, and Idaho, conserving for the public over 100,000 acres of iconic mountains and valleys, rivers and creeks, ranches and farms, and historic sites and open spaces;

(3) played a central role in securing the future of an array of special landscapes, including—

(A) the spectacular Devil's Canyon in the Craig Thomas Special Management Area in the State of Wyoming;

(B) crucial fish and wildlife habitat and recreation access land in the Sawtooth Mountains of Idaho, along the Salmon River, and near the Canadian border; and

(C) diverse and vitally important land all across the Crown of the Continent in the State of Montana, from the world-famous Greater Yellowstone Ecosystem to Glacier National Park to the Cabinet-Yaak Ecosystem, to the recreational trails, working forests and ranches, and critical drinking water supply for Whitefish, and beyond;

(4) made a particularly profound mark on the preservation of the natural wonders in and near the Madison Valley and the Madison Range, Montana, where more than 12 miles of the Madison River and much of the world-class scenery, fish and wildlife, and recreation opportunities of the area have become and shall remain conserved and available to the public because of his efforts;

(5) inspired others with his skill, passion, and spirit of partnership that brought together communities, landowners, sportsmen, and the public at large;

(6) lost a heroic battle with cancer on February 1, 2016, at the age of 52;

(7) is survived by his wife, Lisa, and their 2 sons, Logan and Liam; and

(8) leaves a lasting legacy across Montana and the Northern Rockies that will benefit all people of the United States in our time and in the generations to follow.

SEC. 3. DESIGNATION OF ALEX DIEKMANN PEAK, MONTANA.

(a) IN GENERAL.—The unnamed 9,765-foot peak located 2.2 miles west-northwest of Finger Mountain on the western boundary of the Lee Metcalf Wilderness, Montana (UTM coordinates Zone 12, 457966 E., 4982589 N.), shall be known and designated as ''Alex Diekmann Peak''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, record, or other paper of the United States to the peak described in subsection (a) shall be considered to be a reference to ''Alex Diekmann Peak''.

By Mr. GRASSLEY (for himself, Mr. BLUNT, Mr. INHOFE, Mr. CORNYN, Mr. CRUZ, Mrs. FISCHER, Mr. RUBIO, Mr. FLAKE, Mr. HATCH, and Mr. TILLIS):

S. 119. A bill to impose certain limitations on consent decrees and settlement agreements by agencies that require the agencies to take regulatory action in accordance with the terms thereof, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, for too long, American families, farmers, and job creators have suffered under President Obama's regulatory onslaught. His administration threw caution to wind, pumping out regulation after regulation and further entangling the government into Americans' daily lives.

In November, the American people issued a strong rebuke to President Obama's overreach and his administration's way of doing business.

They want a new direction. They want more accountability. They want more transparency. They want the government off their backs so that they can get back to making this country great again.

President-elect Trump has committed to working with Congress to roll back the regulatory overreach of the Obama administration, and to making the government more answerable to the people.

So, I rise today to introduce an important piece of legislation that will help achieve these goals and ensure a more accountable and transparent government going forward.

By some estimates, Federal Government regulations impose over $2 trillion in compliance costs—on the American economy. The cost of complying with all these regulations falls particularly heavy on small businesses.

It is no wonder why many American businesses have shut down or moved overseas. How many innovators dreamed of starting a small business but decided against it when faced with the burden and uncertainty of our regulatory state?

We have to do better.

The Federal Government should do everything possible to promote job creation. To accomplish that, common sense would tell us that the government needs to remove bureaucratic barriers rather than put up new ones.

But as we all know, the Obama administration showed time and again that it would rather push forward with its regulatory agenda than ease the burden on our economy and job creators.

Adding insult to injury, the Obama administration often kept folks in the dark about new regulatory initiatives.

Through secretive litigation tactics, the administration took end-runs around our nation's transparency and accountability laws. It is a strategy known as sue-and-settle, and regulators have been using it to speed up rulemaking and keep the public away from the table when key policy decisions are made.

Sue-and-settle typically follows a similar pattern.

First, an interest group files a lawsuit against a federal agency, claiming that the agency has failed to take a certain regulatory action by a statutory deadline. The interest group seeks to compel the agency to take action by a new, often-rushed deadline. All too often, the plaintiff-interest group will be one that shares a common regulatory agenda with the agency that it sues, such as when an environmental group sues the Environmental Protection Agency, EPA.

Next, the agency and interest group enter into negotiations behind closed doors to produce either a settlement agreement or consent decree that commits the agency to satisfy the interest group's demands. The agreement is then approved by a court, binding executive discretion.

Noticeably absent from these negotiations, however, are the very parties who will be most impacted by the resulting regulations.

Sue-and-settle tactics undermine transparency, public accountability, and the quality of public policy. They can have sweeping consequences. For example, the Obama administration's so-called Clean Power Plan, which is the most expensive regulation ever to be imposed on the energy industry, arose out of a sue-and-settle arrangement.

These tactics also undermine congressional intent.

The Administrative Procedure Act, APA, which has been called the citizens' ''regulatory bill of rights,'' was

enacted to ensure transparency and accountability in the regulatory process. A key protection is the notice-and-comment process, which requires agencies to provide notice of proposed regulations and to respond to comments submitted by the public.

Rulemaking through sue-and-settle, however, frequently results in realigned agency agendas and short deadlines for regulatory action. This makes the notice-and-comment process a mere formality. It deprives regulated entities, the States and the general public of sufficient time to have any meaningful input.

The resulting regulatory action is driven not by the public interest, but by special interest priorities, and can come as a complete surprise to those most affected by it.

Sue-and-settle litigation also helps agencies avoid accountability. Instead of having to answer to the public for controversial regulations and policy decisions, agency officials can just point to a court order entering the agreement and say that they were required to take action under its terms.

We should also keep in mind that these agreements can have lasting impacts on the ability of future administrations to take a different policy approach—such as to remove regulatory burdens on farmers. Not only does this raise serious concerns about bad public policy, it also puts into question the constitutional impact of one administration's actions binding the hands of its successors.

Sue-and-settle, and the consequences that come from such tactics, is not a new phenomenon. Evidence of sue-and-settle tactics and closed-door rulemaking can be found in nearly every administration over the previous few decades.

But without a doubt, there was an alarming increase under the Obama administration. The U.S. Chamber of Commerce found that just during President Obama's first term, 60 Clean Air Act lawsuits against the EPA were resolved through consent decrees or settlement agreements.

And since 2009, sue-and-settle cases against the EPA have imposed at least $13 billion in annual regulatory costs.

But we now have an opportunity to curb these abuses, and an incoming administration that has committed to reining in the regulators.

That is why today I am introducing the Sunshine for Regulatory Decrees and Settlements Act. Senators BLUNT, INHOFE, CORNYN, CRUZ, FISCHER, RUBIO, FLAKE, HATCH, and TILLIS are cosponsors of this important bill. And I'm pleased that Representative DOUG COLLINS introduced a companion bill today in the House.

The Sunshine bill increases transparency by shedding light on sue-and-settle tactics. It requires agencies to publish sue-and-settle complaints in a readily accessible manner.

It requires agencies to publish proposed consent decrees and settlement agreements at least 60 days before they can be filed with a court. This provides a valuable opportunity for the public to weigh-in, which will increase accountability in the rulemaking process.

The bill makes it easier for affected parties, such as States and businesses, to intervene in these lawsuits and settlement negotiations to ensure that their interests are properly represented. It requires the Attorney General to certify to a court that he or she has personally approved of the terms of certain proposed consent decrees or settlement agreements. And it requires courts to consider whether the terms of a proposed agreement are contrary to the public interest.

The bill also makes it easier for succeeding administrations to modify a prior administration's consent decrees. That way, one administration won't be forced to continue the regulatory excesses of another.

The Sunshine for Regulatory Decrees and Settlements Act will shine light on the problem of sue-and-settle. It will help rein in backroom rulemaking, encourage the appropriate use of consent decrees and settlements, and reinforce the procedures that Congress laid out decades ago to ensure a transparent and accountable regulatory process.

I thank my colleagues for their support of this bill.

By Mr. DAINES (for himself, Mr. PAUL, and Mr. TESTER):

S. 126. A bill to amend the Real ID Act of 2005 to repeal provisions requiring uniform State driver's licenses and State identification cards, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DAINES. Mr. President, in 2005, the Federal Government enacted the REAL ID Act, imposing Federal standards established by the Department of Homeland Security to the process and production of the issuance of States' driver's licenses and identification cards.

This law was an underfunded, top down, Federal mandate, infringing on personal privacy, increasing the personal information susceptible to cyberattacks, and undermining State sovereignty. Furthermore, a REAL ID compliant State ID will be required for all ''official federal purposes,'' including boarding commercial aircraft, impeding the movement of American citizens.

Montana led opposition to this Federal mandate. In 2007, Montana enacted a law, after both chambers of the State legislature unanimously passing legislation, refusing to comply.

That is why I am reintroducing the Repeal ID Act—to allow Montana and other States to implement their laws, protecting their sovereignty and citizens' information. Consistent with the Montana State legislature, this legislation will repeal the REAL ID Act of 2005.

Montanans are fully aware of the power that big data holds and the consequences when that data is abused. Montana has shown how States are best equipped to make licenses secure, without sacrificing the privacy and rights of their citizens. The Repeal ID Act will allow us to strike a balance that protects our national security, while also safeguarding Montanans' civil liberties and personal privacy.

I want to thank Senators PAUL and TESTER for being original cosponsors of this bill and I ask my other Senate colleagues to join us in support of this legislation.

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. 126

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 ''Repeal ID Act of 2017''.

SEC. 2. REPEAL OF REQUIREMENTS FOR UNIFORM STATE DRIVER'S LICENSES AND STATE IDENTIFICATION CARDS.

(a) REPEAL.—Title II of the Real ID Act of 2005 (division B of Public Law 109–13) is amended by striking sections 201 through 205 (49 U.S.C. 30301 note).

(b) CONFORMING AMENDMENTS.—

(1) CRIMINAL CODE.—Section 1028(a)(8) of title 18, United States Code, is amended by striking ''false or actual authentication features'' and inserting ''false identification features''.

(2) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—

(A) IN GENERAL.—Subtitle B of title VII of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by inserting after section 7211 the following:

''SEC. 7212. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.

''(a) DEFINITIONS.—In this section:

''(1) DRIVER'S LICENSE.—The term 'driver's license' means a motor vehicle operator's license (as defined in section 30301(5) of title 49, United States Code).

''(2) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) that has been issued by a State.

''(b) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

''(1) IN GENERAL.—

''(A) LIMITATION ON ACCEPTANCE.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

''(B) DATE FOR CONFORMANCE.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

''(C) STATE CERTIFICATION.—

''(i) IN GENERAL.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

''(ii) FREQUENCY.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

''(iii) AUDITS.—The Secretary of Transportation may conduct periodic audits of each State's compliance with the requirements of this section.

''(2) MINIMUM STANDARDS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish, by regulation, minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

''(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

''(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

''(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

''(D) standards for information to be included on each driver's license or personal identification card, including—

''(i) the person's full legal name;

''(ii) the person's date of birth;

''(iii) the person's gender;

''(iv) the person's driver's license or personal identification card number;

''(v) a digital photograph of the person;

''(vi) the person's address of principal residence; and

''(vii) the person's signature;

''(E) standards for common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements;

''(F) security standards to ensure that driver's licenses and personal identification cards are—

''(i) resistant to tampering, alteration, or counterfeiting; and

''(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

''(G) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

''(3) CONTENT OF REGULATIONS.—The regulations required under paragraph (2)—

''(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

''(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

''(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

''(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

''(E) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

''(4) NEGOTIATED RULEMAKING.—

''(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

''(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

''(i) among State offices that issue driver's licenses or personal identification cards;

''(ii) among State elected officials;

''(iii) the Department of Homeland Security; and

''(iv) among interested parties.

''(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

''(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and shall include an assessment of the benefits and costs of the recommendation; and

''(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

''(c) GRANTS TO STATES.—

''(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

''(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

''(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

''(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.''.

(B) EFFECTIVE DATE.—Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, as added by subparagraph (A), shall take effect as if included in the original enactment of such Act on December 17, 2004.

By Mr. NELSON (for himself, Mrs. FISCHER, Ms. KLOBUCHAR, and Mr. BLUNT):

S. 134. A bill to expand the prohibition on misleading or inaccurate caller identification information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON. Mr. President, fraudulent and abusive phone scams plague thousands of Americans each year. These deceitful practices cause serious financial harm to victims, and have even led to tragedy in a few cases. Both the Committee on Commerce, Science, and Transportation, where I serve as Ranking Member, and the Special Committee on Aging, where I previously served as Chairman, have explored the continuing severe impact of these scams. Consumers continue to lose millions of dollars each year to fraudulent phone scams, many of which originate from other countries. And the impacts of these scams are very real to the consumers who suffer. According to an October 2015 press report from CNN, one poor soul took his life earlier that year after being tricked into spending thousands of dollars in a vain attempt to collect on his winnings in the Jamaican lottery—winnings that were non-existent because it was all a scam perpetrated by phone-based fraudsters.

Nearly all of us have trained ourselves to ignore phone calls and text messages from numbers that are not familiar to us. But these sophisticated scammers know that—and have changed their tactics. Scammers today impersonate government institutions, promote fraudulent lottery schemes, and tailor their calls to individuals in order to coerce victims into paying large sums of money. Many scammers use spoofing technology to manipulate caller ID information and trick consumers into believing that these calls are local or come from trusted institutions.

In 2009, I introduced the Truth in Caller ID Act to prohibit caller ID spoofing when it is used to defraud or harm consumers. That law provided important tools for law enforcement and the Federal Communications Commission, FCC, to go after fraudsters and crack down on these phone scams. I was pleased when my Congressional colleagues joined with me to pass that legislation and the President signed it into law. This was a huge win for consumers and the first step toward ending these abusive practices.

Recognizing the pace at which phone scam technologies evolve, the law directed the FCC to prepare a report to Congress outlining what additional tools were needed to curb other forms of spoofing. In 2011, the agency provided its recommendations to Congress on how to update the law to keep pace with new spoofing practices, such as text messaging scams.

The bill Senators FISCHER, KLOBUCHAR, BLUNT and I have introduced today responds to the FCC's recommendations and builds on the 2010 Act to ensure the law keeps up with these spoofing scams. As these scams become increasingly sophisticated, we need to make sure that consumer protections and tools for law enforcement

keep up. That is why this legislation is so important.

The Spoofing Prevention Act of 2017 would extend the current prohibition on caller ID spoofing to text messages, calls coming from outside the United States, and calls from all forms of Voice over Internet Protocol services.

Additionally, for the first time, this bill would ensure consumers have access to information on a centralized FCC website about current technologies and other tools available to protect themselves against spoofing scams.

Finally, the Act directs the Government Accountability Office, GAO, to conduct a study to assess government and private sector work being done to curb spoofing scams, as well as what new measures, including technological solutions, could be taken to prevent spoofed calls from the start. I know industry, in cooperation with the FCC through its Robocall Strike Force, already is making great strides in this area, and I would expect the GAO to review that work closely.

I urge my colleagues to join Senators FISCHER, KLOBUCHAR, BLUNT, and me in supporting the Spoofing Prevention Act of 2016 to ensure that law enforcement and consumers have the updated tools they need to protect against this fraudulent activity. And make no mistake, I will press the FCC to continue to use its full authority under the Truth in Caller ID Act to stop these scams, including consideration of technical solutions—like call authentication—to protect consumers.

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. 134

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 ''Spoofing Prevention Act of 2017''.

SEC. 2. DEFINITION.

In this Act, the term ''Commission'' means the Federal Communications Commission.

SEC. 3. SPOOFING PREVENTION.

(a) EXPANDING AND CLARIFYING PROHIBITION ON MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) COMMUNICATIONS FROM OUTSIDE THE UNITED STATES.—Section 227(e)(1) of the Communications Act of 1934 (47 U.S.C. 227(e)(1)) is amended by striking ''in connection with any telecommunications service or IP-enabled voice service'' and inserting ''or any person outside the United States if the recipient of the call is within the United States, in connection with any voice service or text messaging service''.

(2) COVERAGE OF TEXT MESSAGES AND VOICE SERVICES.—Section 227(e)(8) of the Communications Act of 1934 (47 U.S.C. 227(e)(8)) is amended—

(A) in subparagraph (A), by striking ''telecommunications service or IP-enabled voice service'' and inserting ''voice service or a text message sent using a text messaging service'';

(B) in the first sentence of subparagraph (B), by striking ''telecommunications service or IP-enabled voice service'' and inserting ''voice service or a text message sent using a text messaging service''; and

(C) by striking subparagraph (C) and inserting the following:

''(C) TEXT MESSAGE.—The term 'text message'—

''(i) means a message consisting of text, images, sounds, or other information that is transmitted from or received by a device that is identified as the transmitting or receiving device by means of a 10-digit telephone number;

''(ii) includes a short message service (commonly referred to as 'SMS') message, an enhanced message service (commonly referred to as 'EMS') message, and a multimedia message service (commonly referred to as 'MMS') message; and

''(iii) does not include a real-time, 2-way voice or video communication.

''(D) TEXT MESSAGING SERVICE.—The term 'text messaging service' means a service that permits the transmission or receipt of a text message, including a service provided as part of or in connection with a voice service.

''(E) VOICE SERVICE.—The term 'voice service'—

''(i) means any service that furnishes voice communications to an end user using resources from the North American Numbering Plan or any successor to the North American Numbering Plan adopted by the Commission under section 251(e)(1); and

''(ii) includes transmissions from a telephone facsimile machine, computer, or other device to a telephone facsimile machine.''.

(3) TECHNICAL AMENDMENT.—Section 227(e) of the Communications Act of 1934 (47 U.S.C. 227(e)) is amended in the heading by inserting ''MISLEADING OR'' before ''INACCURATE''.

(4) REGULATIONS.—

(A) IN GENERAL.—Section 227(e)(3)(A) of the Communications Act of 1934 (47 U.S.C. 227(e)(3)(A)) is amended by striking ''Not later than 6 months after the date of enactment of the Truth in Caller ID Act of 2009, the Commission'' and inserting ''The Commission''.

(B) DEADLINE.—The Commission shall prescribe regulations to implement the amendments made by this subsection not later than 18 months after the date of enactment of this Act.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 6 months after the date on which the Commission prescribes regulations under paragraph (4).

(b) CONSUMER EDUCATION MATERIALS ON HOW TO AVOID SCAMS THAT RELY UPON MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) DEVELOPMENT OF MATERIALS.—Not later than 1 year after the date of enactment of this Act, the Commission, in collaboration with the Federal Trade Commission, shall develop consumer education materials that provide information about—

(A) ways for consumers to identify scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information; and

(B) existing technologies, if any, that a consumer can use to protect against such scams and other fraudulent activity.

(2) CONTENTS.—In developing the consumer education materials under paragraph (1), the Commission shall—

(A) identify existing technologies, if any, that can help consumers guard themselves against scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information, including—

(i) descriptions of how a consumer can use the technologies to protect against such scams and other fraudulent activity; and

(ii) details on how consumers can access and use the technologies; and

(B) provide other information that may help consumers identify and avoid scams and other fraudulent activity that rely upon the use of misleading or inaccurate caller identification information.

(3) UPDATES.—The Commission shall ensure that the consumer education materials required under paragraph (1) are updated on a regular basis.

(4) WEBSITE.—The Commission shall include the consumer education materials developed under paragraph (1) on its website.

(c) GAO REPORT ON COMBATING THE FRAUDULENT PROVISION OF MISLEADING OR INACCURATE CALLER IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the actions the Commission and the Federal Trade Commission have taken to combat the fraudulent provision of misleading or inaccurate caller identification information, and the additional measures that could be taken to combat such activity.

(2) REQUIRED CONSIDERATIONS.—In conducting the study under paragraph (1), the Comptroller General shall examine—

(A) trends in the types of scams that rely on misleading or inaccurate caller identification information;

(B) previous and current enforcement actions by the Commission and the Federal Trade Commission to combat the practices prohibited by section 227(e)(1) of the Communications Act of 1934 (47 U.S.C. 227(e)(1));

(C) current efforts by industry groups and other entities to develop technical standards to deter or prevent the fraudulent provision of misleading or inaccurate caller identification information, and how such standards may help combat the current and future provision of misleading or inaccurate caller identification information; and

(D) whether there are additional actions the Commission, the Federal Trade Commission, and Congress should take to combat the fraudulent provision of misleading or inaccurate caller identification information.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study conducted under paragraph (1), including any recommendations regarding combating the fraudulent provision of misleading or inaccurate caller identification information.

(d) RULE OF CONSTRUCTION.—Nothing in this section, or the amendments made by this section, shall be construed to modify, limit, or otherwise affect any rule or order adopted by the Commission in connection with—

(1) the Telephone Consumer Protection Act of 1991 (Public Law 102–243; 105 Stat. 2394) or the amendments made by that Act; or

(2) the CAN–SPAM Act of 2003 (15 U.S.C. 7701 et seq.).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 12—EXPRESSING THE SENSE OF THE SENATE THAT CLEAN WATER IS A NATIONAL PRIORITY, AND THAT THE JUNE 29, 2015, WATERS OF THE UNITED STATES RULE SHOULD BE WITHDRAWN OR VACATED

Mrs. FISCHER (for herself and Mrs. ERNST) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 12

Whereas the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the ''Clean Water Act'') is one of the most important laws in the United States and has led to decades of successful environmental improvements;

Whereas the success of that Act depends on consistent adherence to the key principle of cooperative federalism, under which the Federal Government and State and local governments all have a role in protecting water resources;

Whereas, in structuring the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) based on the foundation of cooperative federalism, Congress left to the States their traditional authority over land and water, including farmers' fields, nonnavigable, wholly intrastate water (including puddles and ponds), and the allocation of water supplies;

Whereas compliance with the principle of cooperative federalism requires that any regulation defining the term ''waters of the United States'' be promulgated—

(1) after the establishment of a proper regulatory baseline for, and an evaluation of the costs and benefits of, the proposed regulatory definition of the term;

(2) in compliance with—

(A) chapter 6 of title 5, United States Code (commonly known as the ''Regulatory Flexibility Act''); and

(B) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(3) in consultation with States and local governments, including consultation with respect to—

(A) alternative proposals for changing the regulatory definition of the term; and

(B) the impact of the alternative proposals, including costs and benefits, on State and local governments and small entities;

Whereas, in promulgating the final rule entitled ''Clean Water Rule: Definition of 'Waters of the United States' '' (80 Fed. Reg. 37054 (June 29, 2015)) (referred to in this preamble as the ''Waters of the United States Rule''), the Administrator of the Environmental Protection Agency and the Chief of Engineers—

(1) failed to follow the procedural steps described in the fourth whereas clause; and

(2) claimed broad and expansive jurisdiction that encroaches on traditional State authority and undermines longstanding exemptions from Federal regulation under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

Whereas, on October 9, 2015, the United States Court of Appeals for the Sixth Circuit—

(1) issued a nationwide stay for the Waters of the United States Rule; and

(2) found that the petitioners who requested that the court vacate the Waters of the United States Rule have a substantial possibility of success in a hearing on the merits of the case: Now, therefore, be it

Resolved, That it is the sense of the Senate that the final rule of the Administrator of the Environmental Protection Agency and the Chief of Engineers entitled ''Clean Water Rule: Definition of 'Waters of the United States' '' (80 Fed. Reg. 37054 (June 29, 2015)) should be vacated.

SENATE RESOLUTION 13—RECOGNIZING THE HISTORICAL IMPORTANCE OF ASSOCIATE JUSTICE CLARENCE THOMAS

Mr. CORNYN (for himself, Mr. HATCH, Mr. LEE, Mr. SCOTT, and Mr. CRUZ) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 13

Whereas, in 1948, Clarence Thomas was born outside of Savannah, Georgia, in the small community of Pin Point, Georgia;

Whereas Clarence Thomas was born into poverty and under segregation;

Whereas, notwithstanding his humble beginnings and the many impediments he faced, Clarence Thomas demonstrated incredible intellect, discipline, and strength in attending and graduating from St. Benedict the Moor Catholic School, St. John Vianney Minor Seminar, the College of the Holy Cross, and Yale Law School;

Whereas Clarence Thomas had a distinguished legal career with service in State government and all branches of the Federal Government, including the Senate, the Department of Education, the Equal Employment Opportunity Commission, and the United States Court of Appeals for the District of Columbia Circuit;

Whereas, on July 1, 1991, President George Herbert Walker Bush nominated Clarence Thomas to be an Associate Justice of the Supreme Court of the United States (in this preamble referred to as the ''Supreme Court'');

Whereas Justice Thomas is the second African American to serve on the Supreme Court;

Whereas, during his quarter century on the Supreme Court, Justice Thomas has made a unique and indelible contribution to the jurisprudence of the United States;

Whereas Justice Thomas has propounded a jurisprudence that seeks to faithfully apply the original meaning of the text of the Constitution of the United States;

Whereas Justice Thomas has brought renewed focus to constitutional doctrines that the Framers intended to undergird our republican form of government, including federalism and the separation of powers;

Whereas, in fostering this philosophy of law, Justice Thomas reinvigorated not only the jurisprudence of the United States, but also the democracy of the United States;

Whereas Justice Thomas has been a remarkably prolific Associate Justice, writing influential opinions on topics including constitutional law, administrative law, and civil rights;

Whereas, on August 10, 1846, in the name of founding an establishment for the increase and diffusion of knowledge, Congress established the Smithsonian Institution as a trust to be administered by a Board of Regents and a Secretary of the Smithsonian Institution;

Whereas diversity, including intellectual diversity, is a core value of the Smithsonian Institution and the museums of the Smithsonian Institution should capitalize on the richness inherent in differences;

Whereas, upon opening, the National Museum of African American History and Culture (in this preamble referred to as the ''Museum'') is the only national museum devoted exclusively to the documentation of African American life, history, and culture;

Whereas the Museum omits the contribution made by Justice Thomas to the United States; and

Whereas the Senate is hopeful that the Museum will reflect that important contribution: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Associate Justice Clarence Thomas is a historically significant African American who has—

(A) overcome great challenges;

(B) served his country honorably for more than 35 years; and

(C) made an important contribution to the United States, in particular the jurisprudence of the United States; and

(2) the life and work of Justice Thomas are an important part of the story of African Americans in the United States and should have a prominent place in the National Museum of African American History and Culture.

SENATE RESOLUTION 14—COMMENDING THE CLEMSON UNIVERSITY TIGERS FOOTBALL TEAM FOR WINNING THE 2017 COLLEGE FOOTBALL PLAYOFF NATIONAL CHAMPIONSHIP

Mr. GRAHAM (for himself and Mr. SCOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 14

Whereas, on Monday, January 9, 2017, the Clemson University Tigers football team won the 2017 College Football Playoff National Championship (in this preamble referred to as the ''championship game'') by defeating the University of Alabama by a score of 35 to 31 at Raymond James Stadium in Tampa, Florida;

Whereas the Tigers finished the championship game with 511 yards of total offense;

Whereas the victory by the Tigers in the championship game—

(1) earned Clemson its first national title since the 1981 season; and

(2) marked the first time that Clemson had beaten a top-ranked team;

Whereas the head coach of Clemson, Dabo Swinney, has been an outstanding role model to the Clemson players and the Clemson community;

Whereas Deshaun Watson gave the best performance by a quarterback in a championship game;

Whereas Ben Boulware, from Anderson, South Carolina, was named the defensive Most Valuable Player of the championship game;

Whereas Hunter Renfrow, a graduate of Socastee High School, went from being a walk-on player to catching the winning touchdown in the championship game;

Whereas the Clemson University football team displayed outstanding dedication, teamwork, and sportsmanship throughout the 2016 collegiate football season in achieving the highest honor in college football; and

Whereas the Tigers have brought pride and honor to the State of South Carolina: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Clemson University Tigers for winning the 2017 College Football Playoff National Championship;

(2) recognizes the on-field and off-field achievements of the players, coaches, and staff of the Clemson football team; and

(3) respectfully requests that the Secretary of the Senate transmit an enrolled copy of this resolution to—

(A) the President of Clemson University, James P. Clements; and

(B) the head coach of the Clemson University football team, Dabo Swinney.

AUTHORITY FOR COMMITTEES TO MEET

Mr. MCCONNELL. Mr. President, I have four 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 ARMED SERVICES

Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 12, 2017, at 9:30 a.m.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on January 12, 2017, at 10 a.m., to conduct a hearing entitled ''Nomination of Dr. Benajmin Carson To Be Secretary of the U.S. Department of Housing and Urban Development.''

COMMITTEE ON FOREIGN RELATIONS

Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on January 12, 2017, at 12 p.m.

SELECT COMMITTEE ON INTELLIGENCE

Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 12, 2017, at 10 a.m.

UNANIMOUS CONSENT AGREEMENT—H.R. 72

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 4:15 p.m. on Tuesday, January 17, the Committee on Homeland Security and Governmental Affairs be discharged and the Senate proceed to the consideration of H.R. 72; further, that there be 30 minutes of debate equally divided in the usual form, and that upon the use or yielding back of time, the bill be read a third time, and the Senate vote on passage of H.R. 72 with no intervening action or debate; finally, that if passed, the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

COMMENDING THE CLEMSON UNIVERSITY TIGERS FOOTBALL TEAM FOR WINNING THE 2017 COLLEGE FOOTBALL PLAYOFF NATIONAL CHAMPIONSHIP

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 14, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 14) commending the Clemson University Tigers football team for winning the 2017 College Football Playoff National Championship.

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

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 14) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

ORDERS FOR FRIDAY, JANUARY 13, 2017, AND TUESDAY, JANUARY 17, 2017

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Friday, January 13, for a pro forma session only, with no business being conducted; further, that when the Senate adjourns on Friday, January 13, it next convene on Tuesday, January 17, at 3 p.m.; 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 until 4:15 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

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.

There being no objection, the Senate, at 5:38 p.m., adjourned until Friday, January 13, 2017, at 10 a.m.