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## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. HATCH).

### PRAYER

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

Let us pray.

O God, who is the strength of our lives, let us live to tell of Your wondrous work. How magnificent are Your acts, O Lord. How deep are all Your thoughts.

Bless our lawmakers. Empower them to endure the challenges of these times. Give them a humility that will make them willing to decrease, so that Your Spirit may increase in their lives. Lord, renew their minds with truth and sharpen their skills in each important area of living. Bless the members of their staffs, who labor so faithfully for freedom's cause.

We pray in Your sovereign Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### RECOGNITION OF THE MAJORITY LEADER

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

### WELCOMING THE PRIME MINISTER OF ISRAEL

Mr. McCONNELL. Mr. President, let me begin by welcoming a true friend to the United States, Israeli Prime Minister Benjamin Netanyahu, who will be visiting the Capitol later today. Over the years our nations have built a

strong and enduring relationship—a relationship grounded in common values like democracy and individual freedom, a relationship guided by a clear-eyed view of the threats that face us.

This relationship has grown closer and more valuable as terrorism has become a constant threat to our homeland—something the Israelis have known, literally, for decades and as Iran has sought to expand its sphere of influence in an effort to remake the Middle East. I value our relationship greatly. I know President Trump does as well.

Now is the time to strengthen and affirm this important partnership as we move on from 8 years of often needless tension, as we turn the page on an administration that chose as one of its last actions in office to abandon our ally Israel, and in so doing to undermine any semblance of a peace process by encouraging the Palestinians to forego direct negotiations.

This afternoon I will reiterate to the Prime Minister my determination, which I know many in Congress share, to work with our new administration and underline America's commitment to achieving peace with the Palestinians through a negotiated settlement in a way that protects Israel's vital national security interests.

Our nations face many common threats. Strengthening this relationship makes each of us safer. I hope colleagues will join me in extending a warm welcome to Prime Minister Netanyahu on his visit to the Capitol later today.

### SOCIAL SECURITY ADMINISTRATION RESOLUTION OF DISAPPROVAL

Mr. McCONNELL. Mr. President, the Senate has been acting to provide relief from harmful regulations by utilizing the Congressional Review Act, which provides the legislative tools needed to repeal them.

I am pleased to report that just yesterday the President signed the first of several regulation-relief resolutions we hope to send him. Later this week, he will sign a second resolution—a resolution identical to the one I sponsored in the Senate that can bring relief to thousands of mining families in Kentucky and across the country by overturning the problematic stream buffer regulation.

Today, we will send him another one. In a few minutes we will vote to protect the constitutional rights of Americans with disabilities. The resolution will provide relief from an overly broad and legally deficient regulation that threatens the Second Amendment rights of law-abiding Americans with disabilities.

Specifically, in the waning days of the Obama administration, the Social Security Administration issued a rule that the ACLU and disability groups across the country oppose because it unfairly treats many Americans with disabilities.

Under this rule, the Social Security Administration must report to the National Instant Criminal Background Check System anyone who receives benefits for certain disabilities and whom the Social Security Administration believes needs a representative payee to help manage these benefits. As a result of being included on this list, many disabled Social Security beneficiaries are barred from lawfully purchasing a firearm, even though there has been no adjudication that the beneficiary is "mentally defective," which is the standard under both the Gun Control Act of 1968 and the NICS Improvement Amendments Act of 2007 for being barred from buying a firearm.

Numerous disability rights groups oppose the regulation as unfairly stigmatizing the disabled. They agree with us on the need to stop the regulation. The substantive problem with the regulation is compounded, the groups note, by "the absence of any meaningful due

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



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process protections prior to the Social Security Administration's transmittal of names to the NCIS database."

The National Council on Disability, the nonpartisan independent Federal agency charged with advising the President and Congress on policies that affect people with disabilities, opposes the regulation, too. The Council also urges us to use the Congressional Review Act to repeal this eleventh hour regulation "because of the . . . constitutional right at stake and the very real stigma that this rule legitimizes."

Our colleague from Illinois, the assistant Democratic leader, apparently disagrees with the ACLU, the National Council on Disability, and disability rights groups across the country. He came to the floor yesterday to discuss this issue. Like him, we are all deeply saddened by the senseless loss of life due to gun violence. It is alarming indeed that we have seen it increase in certain communities, like Chicago. But the way to address this problem is not to stigmatize the disabled or to deprive law-abiding Americans of their Second Amendment rights without due process of law.

The Department of Justice states that "firearms violations should be aggressively used in prosecuting violent crime." The DOJ goes on to state that such violations are "generally simple and quick to prove." Under the Obama administration, however, there was a 35-percent decrease in gun prosecutions as compared to the Bush Administration, when measured over a 10-year period. In fact, gun prosecutions decreased in almost every year of the Obama administration. I am hopeful that the new leadership at the Justice Department will reverse this alarming trend.

What is not helpful, of course, is the assistant Democratic leader's implication that the Senate is addressing this regulation as some sort of payback to the National Rifle Association. I would inform my friend that almost two dozen groups oppose this last-minute regulation, including nearly 20 disability rights groups.

Does he think the opposition to this regulation from groups like the American Civil Liberties Union, the National Coalition for Mental Health Recovery, and the American Association of People with Disabilities is based on some sort of payback? The reality is that, like us, they believe this regulation is simply bad policy. It places an unfair stigma on those with disabilities and violates their constitutional rights, which is why a wide array of groups oppose it.

I am glad the Senate will now join the House in protecting the constitutional rights of Americans with disabilities by voting to undo the unfair stigma this regulation imposes on them.

I want to thank my colleague from Iowa, Senator GRASSLEY, who has been a leader in addressing this regulation. He introduced the Senate companion of the bill we will vote on today, with over 30 cosponsors.

#### CABINET NOMINATIONS

Mr. McCONNELL. Mr. President, our Democratic friends are getting a lot of pressure from the far left to resist just about everything these days—reality, for one.

The responsible route for Democrats would be to have some real talk with the far left about how it is past time to come to grips with the outcome of the last election. Instead, our Democratic friends have allowed themselves to be pushed around by the fringes into a strategy in search of a purpose—a strategy in search of a purpose.

They really can't prevent the President's Cabinet nominees from being confirmed, and yet they have undertaken the most unprecedented obstruction of Cabinet nominees in modern history. They have postponed hearings repeatedly. They have boycotted committee meetings altogether. They have forced unnecessary procedural hurdles to delay as long as possible. It has resulted in this President's having the fewest number of Cabinet Secretaries confirmed on a percentage basis at this point of any incoming President since George Washington—and to what end?

It hasn't changed the results. What it has done is forced the American people to go on for an unprecedented length of time without leadership in some of the government's most important agencies.

We are determined to work through this pointless obstruction. We will take the next step in that process soon with a vote to advance a nominee to bring fiscal and regulatory sanity to our economy after 8 years of stagnation. Representative MULVANEY knows that making government more effective and accountable is conducive to economic growth, and he knows that getting our fiscal house in order goes hand in hand with compassion. As he put it:

Fixing the economy doesn't mean just taking a green eyeshade approach to the budget. Our government isn't just about numbers. A strong, healthy economy allows us to protect our most vulnerable.

That is just the kind of attitude we need in the Office of Management and Budget. It is good to finally see new economic leadership in place atop Treasury and the Small Business Administration. Now we can chart a better direction for this important budgetary agency, as well, and after we do, we will continue working through this unprecedented obstruction to seat the rest of the Cabinet.

I would urge our friends across the aisle to work with us in doing so. Without cooperation, then, under the regular order we are going to end up working here well into the weekend.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

#### CALLING FOR AN INDEPENDENT INVESTIGATION

Mr. SCHUMER. Mr. President, I rise this morning to address the events of General Flynn's resignation as National Security Advisor on Monday night and the need for a full, independent, impartial, and transparent investigation into the facts of the case. It is now readily apparent that General Flynn's resignation is not the end of the story. It is merely the beginning of a much longer story.

The circumstances of General Flynn's contacts with the Russian Ambassador during the transition, the recent reports of potential high-level contact between the Trump campaign and Russian intelligence, including General Flynn, should raise hairs on the necks of everyone in this body and every American of goodwill—Democrat, Republican, conservative, liberal, Independent. This is not a partisan issue. This is an issue about our country and how it is governed. It is also an issue about our security. We are now left with more questions than answers, and it is imperative to find the truth. With every hour that goes by, more and more questions are raised. Every White House press briefing and early morning tweet seemingly introduces new inconsistencies and contradictions that demand a full accounting. Every report that suggests deeper ties between the Trump campaign and the Russian Government needs to be followed up on and verified.

We need to get all the facts.

So in the days and weeks ahead, the Trump administration needs to answer some serious questions. These questions must be asked by an independent and unbiased law enforcement authority. They must be answered truthfully by administration officials. Any attempt to lie or to mislead must be countered with the full force of law.

There needs to be an independent and transparent investigation on two fronts: one in the legislative branch, where we have an obligation to conduct oversight, and one in the executive branch, which has the responsibility of finding and prosecuting potential criminal liability.

Today I wish to address the investigation that must occur in the executive branch.

The new Attorney General, Jeff Sessions, cannot be the person to lead that investigation. In fact, Justice Department regulations specifically prohibit individuals who have political ties to the subjects of an investigation from leading that investigation. It is a clear conflict of interest. I want to read the regulations of the Department of Justice. They are right here, and every American should see them because they are clear as can be.

No Department of Justice employee may participate in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution or who would be directly affected by the outcome.

No employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization substantially involved in the conduct that is the subject of the investigation or the prosecution.

The regulations continue. They define political relationship, again, clear as a bell:

Political relationship means a close identification with an elected official, candidate, political party or campaign organization arising from service as a principal advisor or official. Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality.

Jeff Sessions was chairman of the National Security Advisory Committee alongside LTG Michael Flynn. He was a senior adviser in the Trump campaign, the first Senator to endorse the President's campaign, and nominated him at the Republican Convention in Cleveland. Those facts and the Department of Justice's own rules disqualify Attorney General Sessions from running this investigation.

The words are crystal clear; there is no wiggle room. If Attorney General Sessions were to conduct or in any way be involved with this investigation, he would be violating Justice Department guidelines.

As bad a start as the Trump administration is off to, it would make things dramatically worse to ignore these guidelines, which were set up for the purpose of getting to the truth in a fair and impartial way.

Attorney General Sessions must recuse himself immediately. Any investigation headed by, directed by, or influenced by the Attorney General will be jaundiced from the very start.

Because the rules are so clear, I expect the Attorney General will recuse himself and allow an independent and thorough investigation to go forward.

We have an additional reason to seek an independent and transparent investigation because of how the White House has treated this matter over the past few weeks.

The White House knew for weeks that General Flynn misled the Vice President and let General Flynn stay on the job. They knew for weeks that his discussion about sanctions with the Russian Government could potentially compromise our national security because he would be subject to blackmail, and they let him stay on.

The President knew for weeks about this and let General Flynn stay on in his full capacity, present at and participating in the highest level of national security discussions, until those reports were made public.

If the reports of General Flynn's incorrect statements to the Vice President were never made public by the Washington Post, would the President's trust ever have eroded? Would General Flynn ever have been fired? Would he still be in his job today? We will never know now. The answer is very troubling.

If an investigation is not independent, nonpartisan, and, most of all, transparent, there is no guarantee this administration will take the decisive and immediate actions necessary to keep our country safe.

I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE SOCIAL SECURITY ADMINISTRATION

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.J. Res. 40, which the clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 40) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Social Security Administration relating to Implementation of the NICS Improvement Amendments Act of 2007.

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes of debate, equally divided.

The Senator from Iowa.

MR. GRASSLEY. Mr. President, before we vote on the resolution of disapproval, I want to reiterate several very important facts.

This resolution of disapproval is bipartisan. The resolution is also supported by 23 groups, mostly disability rights groups.

The disability groups believe that this agency—the Social Security Administration—and its regulation will unfairly stigmatize those with disabilities. Of course, they are right.

The American Civil Liberties Union has said this:

We oppose this rule because it advances and reinforces the harmful stereotype that people with mental disabilities, a vast and diverse group of citizens, are violent and should not own a gun. There is no data to support a connection between the need for a representative payee to manage one's Social Security disability benefits and a propensity toward gun violence.

The ACLU goes on to say:

Here, the rule automatically conflates one's disability-related characteristic, that is, difficulty managing money, with the inability to safely possess a firearm.

The agency regulation is defective in many ways. Namely, the regulation does not require the agency to prove a person is dangerous or mentally ill. The regulation also provides no formal hearing or due process before a person is reported to the gun ban list.

Supporters of the gun ban have said that repeal of this regulation will interfere with the enforcement of the gun prohibition laws. I want to say plainly and simply: This is hogwash. We should not let baseless scare tactics confuse this important issue.

Important Federal gun laws are still on the books, even if the agency rule is repealed. We aren't repealing any laws.

The new regulation is inconsistent with these existing Federal gun laws.

The agency still has a duty to report anyone who has actually been adjudicated as dangerously mentally ill to the gun ban list. That is also true of anyone convicted of a felony or a misdemeanor crime of domestic violence or involuntarily committed to a mental institution.

The Federal law requires this:

If a Federal department or agency . . . has any record of any person demonstrating that the person falls within one of the categories . . . shall . . . provide the pertinent information contained in such record to the Attorney General.

This law remains in effect.

Repealing this regulation will merely ensure that disabled citizens' Second Amendment rights are, in fact, protected.

Those rights will no longer be able to be revoked without a hearing and without due process. It will take more than a personal opinion—just a personal opinion of a bureaucrat—to abridge one's Second Amendment rights.

An existing statute requires agencies to report the individuals to the gun ban list who are ineligible to possess firearms. That requirement remains intact even if this regulation is repealed.

So it is plainly wrong to claim, as has been said, that if the regulation is disapproved, agencies will no longer have to report prohibited persons.

If the supporters of this regulation want to take away people's gun rights, then they need to acknowledge the government must carry the burden to actually prove a person—prove a person—is dangerously mentally ill. And the government must provide due process in that process.

They need to go back to the drawing board, in other words, because this rule is inconsistent with the very important Second Amendment rights to bear arms, own, and possess guns—buy and possess guns. Therefore, it must be repealed, and this resolution must be approved.

I yield the floor.

MRS. FEINSTEIN. Mr. President, I rise today to urge my colleagues to defeat a Congressional Review Act resolution that would weaken the FBI's gun background check system and make it easier for individuals with severe mental illness to buy guns.

Gun violence is an epidemic in our communities—killing more than 30,000 people each year; yet this resolution would prevent the Federal Government from taking even the most basic steps to improve enforcement of current gun laws.

It blocks a rule that requires the Social Security Administration to report to the FBI background check system individuals who have a severe mental illness that prevents them from managing their own affairs. This determination is made during the application process for Social Security disability benefits.

This policy could have prevented tragedies like that of Janet Delana and

her daughter Colby. Colby was diagnosed with paranoid schizophrenia in 2011. She received Social Security disability payments as a result of her mental illness and lived with her parents in Missouri. A year after her diagnosis, Colby used the money from her disability check to buy a gun at a local dealer. Her mom called the dealer and begged him not to make the sale. Janet explained that her daughter was mentally ill and suicidal and that she would likely use the gun to harm herself or others. Nonetheless, Colby passed her background check and bought the gun. Just an hour later, Colby shot her father to death and tried to kill herself. Janet's now a widow, and Colby lives in an institution. Their story didn't have to end that way. We should all agree that severely mentally ill individuals like Colby should not have access to guns. Federal law already says that individuals with severe mental illness are barred from purchasing or possessing guns. Yet time and again, we have seen prohibited purchasers like Colby pass background checks. That is because the background check system does not have records of all mentally ill individuals barred from buying guns.

While the background check system has denied gun transfers to 1.3 million prohibited individuals—including felons, drug addicts, and fugitives—it isn't perfect. There are individuals like Colby whose information should be in the system—but isn't. We need to improve the background check system and ensure information that is supposed to be in the system is in fact included.

A recent report by the Police Foundation and Major Cities Chiefs Association noted that this is critically important if we are going to reduce violent crime in our country. The 2007 mass shooting at Virginia Tech—the second deadliest mass shooting in our history—could have been prevented if we had a better background check system. Seung-Hui Cho, an angry, mentally disturbed individual, slaughtered 32 students and teachers and wounded many others. After the massacre, we learned that Cho in 2005 had been ordered to attend psychiatric treatment and a judge ruled that he presented “an imminent danger to himself as a result of mental illness.” As a consequence of this judge's determination, Cho's name should have been entered in the NICS database. But it wasn't—that is because the FBI didn't have the records.

In response to the shooting, Congress in 2007 unanimously approved the NICS Improvement Amendments Act to improve record keeping in the background check system. Senators Ted Kennedy, PAT LEAHY, CHUCK SCHUMER, and Tom Coburn worked together on the bill, and President Bush signed it into law. The bill was supported by both the National Rifle Association and the Brady Campaign to Prevent Gun Violence. That never happens.

It is this bill—passed unanimously and supported by the gun lobby—that

required the Social Security Administration to issue the rule we are debating today. The Social Security Administration engaged in a painstaking process over the past year to develop this policy. It received more than 90,000 comments from advocates and members of the public. The rule was carefully crafted to identify individuals like Colby, while protecting due process.

The majority of individuals with mental illness do not commit acts of violence, and they would not be affected by this rule. The rule covers only individuals with serious conditions, including schizophrenia, who need additional assistance to manage their affairs. This determination is made following an extensive review of medical evidence, which takes place before the person is approved for Social Security disability benefits.

The rule further specifies that it would only apply to prospective claimants—starting in December 2017. That means it would not apply to individuals who already receive disability benefits. Repealing this rule through the Congressional Review Act would not only overturn the policy that's been developed. It would block the Social Security Administration from ever taking action to implement the NICS Improvement Act and report mentally ill individuals to the FBI.

Time and time again, my Republican colleagues respond to horrific mass shootings by saying that we don't need any new gun laws. We just need to better enforce the gun laws we already have. That is exactly what this rule aims to do—improve enforcement of current law and make sure people already barred from buying guns can't buy guns.

So, the question comes: What won't Republicans do to appease the gun lobby?

We lose more than 30,000 people to gun violence each year in this country, many of whom are mentally ill and commit suicide. It should shock the conscience of the American people the Senate is considering weakening our Federal background check system in response to this unabated epidemic of violence.

I urge my colleagues to vote against repealing the Social Security Administration's rule. Thank you.

Ms. COLLINS. Mr. President, I rise in support of H.J. Res. 40, a resolution of disapproval of the rule submitted by the Social Security Administration relating to the implementation of the NICS Improvement Amendments Act of 2007. The rule in question would require the Social Security Administration to send to the Attorney General the names of certain beneficiaries for inclusion in the NICS background check database and would make it illegal for these beneficiaries to own or possess a firearm.

In matters where the government is promulgating regulations limiting the Constitutional rights of Americans, it

is especially important that the regulations be drafted carefully. I am concerned that this rule targets individuals with mental illness without requiring the Social Security Administration to determine that the individuals whose rights are being limited are dangerous either to themselves or others. As a result, this rule inadvertently reinforces an unfortunate and inaccurate stereotype that suggests that most individuals with mental illness are violent.

Rather than focus on whether the beneficiary presents a danger, the rule instead turns on beneficiaries' ability to manage their finances. Because of this, the rule includes a test that could lead to absurd and unfair results. Under the rule, two individuals could present the exact same condition and symptoms, but if one of them required assistance with their financial affairs, that person would be reported to the NICS background check system, while the other would not.

I hope that the Social Security Administration will consider these suggestions as well as the comments from my good friend from Pennsylvania, Senator TOOMEY, and others, and promulgate a new rule. Addressing these concerns would result in a more effective rule, consistent with Constitutional requirements, which would make Americans safer while protecting the rights of those living with mental illness.

Mr. VAN HOLLEN. Mr. President, guns kill 36,000 Americans every year. That's nearly 100 Americans every day.

To help address this scourge of violent death, Congress enacted the Brady Handgun Violence Prevention Act in 1993. The Brady Act required the Attorney General to establish the National Instant Criminal Background Check System, or NICS, to determine whether Federal law prohibits a potential buyer from getting a gun.

Following the Virginia Tech massacre in 2007, which left 33 dead, President George W. Bush signed into law the NICS Improvement Amendments Act to improve the national background check system. The Virginia Tech shooter was able to buy a gun because the background check system did not include information about his mental health.

The prohibition on buying a gun now applies to people who, as a result of their mental condition, have been determined to pose a danger to themselves or others or lack the capacity to manage their own affairs. The Social Security Administration proposed its rule to meet the requirements to strengthen the background check system in the 2007 NICS Improvement Amendments Act.

The Social Security Administration's rule defined Social Security disability beneficiaries who are have a mental impairment and need another person—known as a “representative payee”—to handle the receipt of their benefits to fall within the category of those

who lack the capacity to manage their own affairs. Importantly, these determinations would be subject to judicial review. The rule is not a perfect fit, but it is an appropriate one.

I have heard from some disability rights advocates that this rule may be unduly broad and might prohibit too many people from owning a gun. I am sensitive to the concerns of people with disabilities. It is wrong to stigmatize people with mental disabilities as the cause of gun violence. And people with disabilities, like all Americans, have important rights under the Second Amendment. I would be open to changes to the rule that would make appeals from determinations easier to make, and I would be open to other ways to better identify people who are a danger to themselves or others or lack the capacity to manage their own affairs.

A resolution to disapprove the rule under the Congressional Review Act, however, is not the right way to get to a better result. If Congress enacts the resolution of disapproval, then the law would prohibit the Social Security Administration from writing a better rule in its place.

Better still, Congress could enact sensible gun legislation. But instead of working with Democrats to improve the law, Republicans have chosen to use the blunt instrument of the Congressional Review Act to repeal the rule. Using the Congressional Review Act is far from the most precise way to address this problem.

The powerful gun lobby has prevented Republicans in Congress from supporting common sense legislation that most Americans favor. The overwhelming majority of Americans believe in universal background checks and that guns should be kept out of the hands of people who have been determined to pose a risk or are unable to manage their affairs. Repealing the Social Security Administration's rule would go in the opposite direction. Enacting this resolution of disapproval will only make it harder to keep American communities safe, and thus I oppose the resolution.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, whenever the discussion in the Senate turns to gun violence, we often hear Senators say: We shouldn't be talking about guns; we ought to be talking about mental health. That is exactly what we are trying to make sure is the focus of this debate because this proposed rule is about mental health, and it is about background checks; it is not about taking away anyone's constitutional rights.

Here is how the proposal works. If there is an individual with a severe mental impairment—that means that another person, perhaps a family member—is in charge of their Social Security benefits, then the background check is to be informed by Social Security that the person with a severe men-

tal impairment is ineligible to buy a gun.

Having listened to the debate yesterday, I think everybody is going to be a little confused about what happens then because the reality is that anyone who thinks they have been unfairly affected can appeal, and the likelihood is substantial that they are going to win. If the appeal goes the other way and the individual believes the decision is wrong, then that person can take the matter to court. It is not true to say this rule deprives any American of due process. It is a rule aimed directly at the two areas in this debate—mental health and background checks—where there is enormous support from the American people.

The reality is you can talk to people in virtually any community—you can go to a townhall meeting in any part of the United States—and you will hear enormous support for background checks. One recent poll found that 92 percent of gun owners supported expanded background checks. Ninety-two percent of gun owners supported background checks. So not only is the position I am articulating not extreme, opposing background checks is the position that, in fact, has become increasingly out of the mainstream.

As the courts continue to interpret the language of the Second Amendment, one matter has been clear: Background checks are a constitutional part of the exercise of those rights.

I have heard some saying that the rule can be improved, that it ought to be tailored. I am very open to having a debate around those kinds of questions. That is not going to be possible if this resolution passes. This will preempt debate. The resolution doesn't just scrap the rule, it blocks any further step on this issue for years. In my view, that would be the wrong way to go, even if you have suggestions for improving the rule.

So to wrap up the debate, I want colleagues to know that this rule, this proposal that has been described on the floor—this resolution—ought to be opposed because for those who want improved mental health, for those who want background checks, for those who are just saying what we need to do in this area as it relates to gun violence—it is not about Democrats and it is not about Republicans; it is about common sense. The commonsense position today for background checks, a focus on mental health, and, most importantly, common sense is to oppose the resolution.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. GRASSLEY. Mr. President, on this side I yield back our unused time.

Mr. WYDEN. I yield back.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. The joint resolution having been read the third

time, the question is, Shall the joint resolution pass?

Mr. GRASSLEY. 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.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 66 Leg.]

#### YEAS—57

Alexander	Flake	Murkowski
Barrasso	Gardner	Paul
Blunt	Graham	Perdue
Boozman	Grassley	Portman
Burr	Hatch	Risch
Capito	Heitkamp	Roberts
Cassidy	Heller	Rounds
Cochran	Hoeven	Rubio
Collins	Inhofe	Sasse
Corker	Isakson	Scott
Cornyn	Johnson	Shelby
Cotton	Kennedy	Strange
Crapo	King	Sullivan
Cruz	Lankford	Tester
Daines	Lee	Thune
Donnelly	Manchin	Tillis
Enzi	McCain	Toomey
Ernst	McConnell	Wicker
Fischer	Moran	Young

#### NAYS—43

Baldwin	Gillibrand	Peters
Bennet	Harris	Reed
Blumenthal	Hassan	Sanders
Booker	Heinrich	Schatz
Brown	Hirono	Schumer
Cantwell	Kaine	Shaheen
Cardin	Klobuchar	Stabenow
Carper	Leahy	Udall
Casey	Markey	Van Hollen
Coons	McCaskey	Warner
Cortez Masto	Menendez	Warren
Duckworth	Merkley	Whitehouse
Durbin	Murphy	Wyden
Feinstein	Murray	
Franken	Nelson	

The joint resolution (H.J. Res. 40) was passed.

#### ORDER FOR RECESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate recess from 12:30 p.m. until 2 p.m. today; further, that the time during the recess count postcloture on the Mulvaney nomination.

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

#### CLOTURE MOTION

Mr. McCONNELL. I yield back all the time on this side.

Mr. CORNYN. Mr. President, I yield back all time.

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

Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Mick Mulvaney, of South Carolina,

to be Director of the Office of Management and Budget.

Mitch McConnell, John Cornyn, Mike Rounds, Tim Scott, Johnny Isakson, James M. Inhofe, Roger F. Wicker, John Thune, Michael B. Enzi, Lindsey Graham, David Perdue, Orrin G. Hatch, Mike Crapo, James E. Risch, James Lankford, John Hoeven, Chuck Grassley.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of MICK MULVANEY, of South Carolina, to be Director of the Office of Management and Budget shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 52, nays 48, as follows:

[Rollcall Vote No. 67 Ex.]

#### YEAS—52

Alexander	Flake	Perdue
Barrasso	Gardner	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rounds
Capito	Heller	Rubio
Cassidy	Hoeven	Sasse
Cochran	Inhofe	Scott
Collins	Isakson	Shelby
Corker	Johnson	Strange
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Crapo	Lee	Tillis
Cruz	McCain	Toomey
Daines	McConnell	Wicker
Enzi	Moran	Young
Ernst	Murkowski	
Fischer	Paul	

#### NAYS—48

Baldwin	Gillibrand	Murray
Bennet	Harris	Nelson
Blumenthal	Hassan	Peters
Booker	Heinrich	Reed
Brown	Heitkamp	Sanders
Cantwell	Hirono	Schatz
Cardin	Kaine	Schumer
Carper	King	Shaheen
Casey	Klobuchar	Stabenow
Coons	Leahy	Tester
Cortez Masto	Manchin	Udall
Donnelly	Markey	Van Hollen
Duckworth	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murphy	Wyden

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 48.

The motion is agreed to.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of MICK MULVANEY, of South Carolina, to be Director of the Office of Management and Budget.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today as the Senate considers the nomination of MICK MULVANEY of South Carolina to be the Director of the White House Office of Management and Budget. That is OMB. We are long overdue in

confirming Mr. MULVANEY to this key post because our Nation has so many pressing budgetary issues requiring the attention of this new administration. First among them is the staggering \$20 trillion debt burden we are now faced with after 8 years of anemic economic policy and growth—and growing at the rate of half a trillion dollars a year. Confirming an OMB Director we can work with will put America on a more responsible fiscal path.

With their unprecedented attempts to delay the new Cabinet, Senate Democrats have ensured that the President has now been without an OMB Director longer than any other President in the past 40 years. That is how long the Budget Act has been in place. According to Senate records, from President Jimmy Carter to President Obama, the longest it has ever taken to approve a first budget director for a new President was 1 week—1 week. We are now in week 4, with little or no movement. As Majority Leader MCCONNELL said last week, this is the slowest time for a new Cabinet to be up and running since President George Washington—and that was last week. It is even slower than that, and we are still not done.

It is vital that we fill this position as soon as possible because the Director of the Office of Management and Budget will help set the President's budget priorities and play an important role in working with Congress on setting the appropriate spending levels for the Nation. This position is crucial to helping the Federal Government function in what is shaping up to be a very challenging fiscal environment that requires all of our attention.

Some may wonder why Democrats are opposed to Mr. MULVANEY. It could be because he has been a vigilant budget hawk during his 6 years in Congress, focused on the question of how we ultimately stop the Federal Government from overspending while continuing to fund the country's core priorities and responsibilities. They could be worried that the White House Budget Director will be a prominent voice, arguing for fiscal restraint, for responsible budgets, and for honest budgeting that avoids the use of gimmicks, such as emergency funding designations for nonemergencies.

I am hopeful Mr. MULVANEY and the OMB will ensure the taxes the hard-working Americans send to Washington are spent in the most efficient and effective way. The Federal Government has not been currently focused on making sure hard-working taxpayers get the best deal for their money. A new OMB Director focused on responsible budgeting can help ensure that when duplication in government programs and agencies is discovered, it is addressed. This will help make the Federal Government more accountable and effective.

The Government Accountability Office, GAO, every year outlines tens of billions of dollars in savings that can

be achieved through various efficiency measures. OMB can play an important role in ensuring that spending programs do not duplicate each other while protecting hard-working taxpayers. Additionally, reforming and consolidating these programs can ensure that they focus on real needs and be managed with an eye on real results.

The Federal Government has grown so large and so complex that no one seems to know how many Federal programs exist. Even the executive branch can't tell us how many programs it administers. I have directed a lot of questions to the past administration, trying to find out exactly that. Of course, I would like to not only know how many programs they administer, I would like to know how many dollars are involved, I would like to know how many people it employs and how many customers they serve. There ought to be some kind of relationship there that means we are making a difference, but nobody is looking at it.

Several years ago, Congress even passed a law requiring the administration to publish a list of all Federal programs on a central governmentwide website, along with related budget and performance information—some of what I was just talking about. Unfortunately, when the program lists were put online, GAO reviewed the information and discovered that the inventory, in their words—listen to this carefully—was “not a useful tool for decision making.” What were they afraid of? But even if the government can't answer that question, we can find strong evidence that the number is on the rise, and Mr. MULVANEY will be able to play a crucial role in taming the unchecked growth of the Federal Government.

I also look forward to working with him on the urgent need to reform the broken budget process, which has contributed to the budgetary stalemate and recurrent continuing resolutions to which Congress now routinely resorts in order to postpone hard decisions about spending and debt, which delays agencies from being able to plan.

There is an urgent need for important reforms to the process, such as implementing biennial budgeting so they can plan 2 years at a time, and the overhaul of outdated budget accounting concepts that have outlived their usefulness. Ultimately, my goal is to have Congress work with this new administration to produce comprehensive and lasting budget reform that can put our Nation on a better fiscal path. The Budget Committee has been working on that for a year in a very bipartisan way. It is time for us to put some of those into place.

Despite its significance, the preparation of the President's annual budget submission is only one of the responsibilities of OMB. As an entity within the Executive Office of the President, OMB has numerous governmentwide management responsibilities, in addition to budgeting and spending, that

concern various activities carried out by Federal agencies. These include agency rulemaking, agency contracting, agency grants management, agency financial management, information technology, program assessment, personnel policy, property management. We don't even have a list of what property we have, let alone when it is probably going to outlive its usefulness and when it needs to be replaced. That would be capital budgeting. I hope we can do that at some point.

It is for these reasons and more that I encourage the Senate to exercise its constitutional duties to provide their advice and consent on this key Cabinet-level position and confirm Representative MICK MULVANEY of South Carolina to be Director of the Office of Management and Budget.

I have talked to him extensively. I have known him for a long time, and I know he will do a spectacular job with this at providing good advice to the President so we can do whatever we can do and bring as many people together in meeting the responsibilities of this government. I hope the people will join me in support of this outstanding nominee.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NELSON. Mr. President, we are moving forward now on the consideration of Congressman MICK MULVANEY, the President's nominee to head the Office of Management and Budget, which is an enormous responsibility and which often directs the traffic of what is going to happen in all of the agencies and directs traffic as to what legislation the White House is going to be working on and working with the Congress on. This is an enormous responsibility and a very powerful position.

When looking for someone to lead this agency, we have to carefully consider the person's record. The Presiding Officer is someone who is practical, who is a military officer, and who understands a lot about human nature, as I hope this Senator from Florida does, and what I suspect that both of us have found is that you can often tell where a fellow is going by where he has been.

Let's look at Congressman MULVANEY's record on everything from things like Social Security and Medicare. Let's look at what his record is on climate change and sea level rise, and, oh, by the way, of particular note to the gentleman presiding in the Chair, what is his record on defense spending. Office of Management and Budget is going to have a great deal to say about what is in the budget with

regard to any kind of spending, but let's see what he has said with regard to defense spending.

Congressman MULVANEY has advocated for raising the retirement age for Social Security to 70. He has also said he wants to raise the Medicare eligibility age from 65 to 67, both of which would require senior citizens to work longer, even though they have worked a long time and have paid into these programs in good faith.

Take, for example, Medicare. People have tried to provide for health insurance, if they have enough money, or otherwise through the ACA, getting subsidies to afford health insurance or, if they don't have enough money, having Medicaid, and they are waiting for the day they turn 65 to be eligible for Medicare.

It is the same thing with Social Security. Social Security over time has been raised from 65 to 67, but Congressman MULVANEY has talked about raising the eligibility for Social Security to age 70. I don't think this is going to go over too well with a population of senior citizens who have paid into Social Security, who have paid in to finance Medicare and now are being told they are going to have to wait until later.

I know how you can dress it up. You can say: Oh, it is not going to affect anybody who is currently eligible, but what about all the young people who are paying in? Well, time flies, and suddenly they find they are approaching that age in their midsixties. I don't think people are going to take very well to Congressman MULVANEY's position.

Let's see what else he has said. He called Social Security a Ponzi scheme. He further has said he supports turning Medicare into a voucher system. That, under any independent economist's examination, would lead to big cuts for seniors, many of our senior citizens who have no other options for health coverage.

When the President was running for office—remember, he said exactly the opposite. Then-Candidate Trump said he promised there would be no cuts to Medicare and Social Security. Yet the White House has nominated somebody who has taken positions contrary to that because it is clear from Congressman MULVANEY's past positions, that we can't rely on him to keep this promise that the President made.

Again, I remind our listeners that the head of the OMB is like a chief air traffic controller. He is directing a lot of the traffic of what the White House will bless, and it is a position—need I remind you—that is also considered a member of the President's Cabinet. Well, the positions Mulvaney has taken are opposite to those stated by Candidate Trump.

Let's look at something else. You know the Nation has debt. In fact, U.S. bonds are the strongest investment in the world because they are backed up by the full faith and credit of the U.S.

Government, the strongest government in the world. So any kind of U.S. debt, backed by the full faith and credit, is the strongest investment in the world, but Congressman MULVANEY has taken an alarming position on our Nation's debt, advocating for shutting down the government and defaulting on the debt—all a part of a political game to gain leverage in budget battles.

Anybody who takes a position that you want our government to go into default on its financial obligations—that is a pretty extreme position. So this Senator would merely say we can't have somebody in charge of our budget as the Director of the Office of Management and Budget who is willing to risk a default on our government to meet a personal ideological agenda.

Let's look at something else. The Presiding Officer is in one area of the United States outside of the continental United States, and yours truly is in another part of the United States. One is near the Arctic, and the other is near southern climes. Our State, and specifically South Florida, is ground zero for sea level rise.

I think most people are familiar with the photographs on television showing seawater washing through the streets during the seasonal high tides of Miami Beach. Most people have heard that in some of the coastal cities they had to relocate well fields further west because of sea level rise and the intrusion of salt water, which is heavier than freshwater, into the interior. Florida sits on top of a honeycomb of limestone that is filled with water. That is what is happening in the southern part of the United States.

A NASA scientist testified to the Commerce Committee that—these are measurements, not forecasts or projections but measurements over the last 4 years—the sea has risen in South Florida 5 to 8 inches. Of course, we have heard the projections. This is something we are getting ready for. The city of Miami Beach is spending millions of dollars on very expensive pumps. Other governments in South Florida are planning to do the same. It is not a forecast. It is happening.

Three-quarters of our State's population in Florida lives on the coast. Look at the population in the United States. A lot of people live on the coast, and those populations are going to bear the brunt of sea level rise from the flooded streets to tainted drinking water. But during his confirmation hearing, the fellow being considered to be head of the OMB, Congressman MULVANEY, questioned the scientific fact of climate change.

We can't muzzle scientists. We can't muzzle science. It is not going to go away. You can attempt to muzzle the scientists as some Governors in the South have done, and alarmingly, as I have found in the last few weeks, some agencies of government are having implied threats that they stop using the words "climate change." You can't muzzle this when the effects of scientifically proven climate change are



posing a real threat to a lot of our people.

I specifically made it a point to question the fellow whom we will vote on next week—a really good person, Wilbur Ross, who is going to be the Secretary of Commerce. He came out of our Commerce Committee with an overwhelming vote. I specifically said, and it is on the record: What do you think about climate change science?

I said: Mr. Ross, Wilbur Ross, do you know you have three Nobel laureates as scientists who are employed in the Department of Commerce? Do you know that you have not only NOAA and all the intricate measurements that are so important for us to protect ourselves, to read in-bound hurricanes, tornadoes, the amount of rain that is going to fall for our agriculture industry, all the rest, but also we have scientists over there in the Department of Commerce, I reminded him, who are doing the delicate measurements of science, of standards and technology that are kneading science to sniff the atmosphere for nuclear explosions by potential enemies. We don't want to muzzle these scientists. We want them to bring forth the best that they can come up with in modern-day techniques.

I would ask the Presiding Officer to look at the bill we have filed with a number of our fellow Members of the Commerce Committee, the Scientific Integrity Act, which would ensure that Federal scientists can freely communicate their findings with the public and with Congress. It requires Federal agencies to implement and enforce scientific integrity policies and to ensure that adequate procedures are in place to report when those integrity policies are violated. That ought to be common sense. That ought to be the normal course of business around here. Let people speak their minds, speak their expertise. That is what we want. That bill requires Federal agencies to implement and enforce those policies.

Let's get to defense spending. The nominee for Office of Management and Budget—Congressman MULVANEY's—record on military spending is concerning. In 2011, in an interview on ABC's "Top Line," Congressman MULVANEY said:

Defense has to be cut—it has to be on the table, no question. There is a group of Republicans—myself included—who think that we should be cutting defense. There's a large portion of folks in our own party who know that you can cut defense and not impact the ability of our troops in the field to be defending us.

Why don't we ask the people in Ukraine who are fighting for their lives against the projected arm of Vladimir Putin trying to take over their territory, just like he already did in taking over Crimea? Why don't we ask our NATO allies? Why don't we ask our troops in the hot, sandy regions of Iraq and Syria right now? Yes, our U.S. troops are in Syria—the Special Operations forces advising the combined

forces over there fighting ISIS. Why don't we ask them if they want defense cuts? As we see the continuous projection of the ability of Russia to move on to three Baltic States which are our NATO partners, why don't we ask them if they would like our defense budget cut? Why don't we ask our allies in the Pacific region that are so concerned about the testing of these increasingly longer range, intermediate range ballistic missiles by North Korea—why don't we ask them if they want us to cut back on the assets that we have in the region to be able to protect them from the North Koreans if that child dictator suddenly goes off on some crazy tangent and pushes the button?

So I will just summarize and state that Congressman MULVANEY has repeatedly demonstrated an unwillingness to face domestic and global realities, and for this Senator, that raises serious concerns as to whether he can be trusted to responsibly oversee our Nation's budget process. For these reasons and others, I will be voting no on Congressman MULVANEY's nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KAINE. Thank you, Mr. President.

I rise to speak on the nomination of Representative MULVANEY to be Director of the Office of Management and Budget, the matter currently pending before us.

I will vote against the nomination because of Representative MULVANEY's opposition to bipartisan budget accords, targeting of Federal employees, and his willingness to use the full faith and credit of the United States as negotiating leverage.

Background. This is a really important position and I am on the Budget Committee that oversees OMB and its opportunities. The OMB Director is a primary adviser to the President on budgetary matters. The OMB Director is in charge of preparing the annual budget submission to Congress, and the management function of the OMB is a very important one in terms of management of the Federal workforce and the work of the executives.

We have seen OMB Directors in the past deeply involved in fiscal negotiations of national importance, most notably in the time I have been here on deals to address the across-the-board sequester cuts and even the shutdown of government in October of 2013. So it is very important that in this position the Director have a proven record of public service. One side or the other is fine, but there has to be a recognition of the value of bipartisan compromise,

putting the country first, putting pragmatism ahead of ideology, and a commitment that is rock solid to maintaining the fiscal credibility and integrity of the country. I worry about Representative MULVANEY in each of these areas.

With respect to bipartisan compromise on budget matters, I was a budget conferee in 2013 after the government shutdown. The Senate and House each had a budget. There was a refusal to sit down to do a budget conference. That led to the absence of a budget and the shutdown of the government for 16 days—the greatest government on Earth.

As we came out of that, there was a recognition and an agreement that we would sit down and try to hammer out a budget compromise. People didn't give us a lot of odds that we would do it, but because of the leadership of then-Budget chairs, now the current Speaker of the House, PAUL RYAN, and PATTY MURRAY, the Budget chairs enabled us to reach a compromise that was for the good of the country by the end of calendar year 2013.

At that point, the nominee was a Member of Congress and played a very active role in opposing the budget compromise. He voted against the deal we needed to get following the shutdown of the government, and his quote was:

It seems, yet again, that Washington cannot wean itself from its spending addiction. Indeed, what we saw today is another example of how we got \$17 trillion in debt: we can have lots of bipartisanship, as long as we spend more money.

The unwillingness to embrace a bipartisan compromise, even after the Government of the United States shut down, troubles me significantly.

I worry about his pragmatism on these matters. He has supported using government shutdown and the threat of government shutdown as a lever—as a lever to defund Planned Parenthood, as a lever on other matters that he thinks are important, and that is fine, but to use those as a lever—to use the shutdown of the Federal Government—that government that Abraham Lincoln said was a government by, of, and for the people and it should not perish from the face of the Earth—I view that as we shouldn't shut the Federal Government of the United States down—but he has used debt ceiling and shutdown as a leverage to gain his way on points of lesser importance than whether the government stays open.

He has continued to support the sequester, which I believe is bad policy for the United States: "We want to keep the sequester in place and then take the cuts we can get."

There is also a significant issue that matters to me in my State. I asked him about it during the hearing that demonstrates an ideology over pragmatism, which is, Does he accept the science behind climate change? Why does that matter for an OMB Director?

Well, we are investing money in storm relief. We are investing money in



emergency relief. We are investing money when we rewrite the flood insurance program.

In Hampton Roads, Virginia, in the State where I live, 1.6 million people—the biggest center of naval power in the country—deeply affected by sea level rise. If you are a Budget Director, some of what you do is make recommendations for how to spend money on things like resilience to sea level rise, but if you do not believe that humans are affecting climate change, then your budgets are not going to show that you think that is a priority. In questions before the committee, Representative MULVANEY challenged the notion that humans are affecting climate change.

Finally, I worry about his effect on the Federal workforce. There are more than 170,000 Federal employees in Virginia, a large part of my constituency. They do a great job. There is going to be some challenging employees in any entity, whether it is in the Senate or whether it is in a private entity. On balance, our Federal employees are people who deserve our thanks for the job they do.

The House took an action at the beginning of January—the Senate did not take this action, but the House took an action that reinstated something called the Holman rule. The Holman rule is a longstanding, but for a long while unused, doctrine that allows the House, in an appropriations bill, to target an individual employee and reduce their salary to as low as \$1 a year. They couldn't fire someone without violating civil service rules, but the House voted to be able to target individual employees and reduce their salaries to \$1 a year. This, together with a Federal hiring freeze and other actions, is causing a great deal of angst among the Federal workforce. Congressman MULVANEY supported the notion of bringing back the Holman rule so individual employees could be targeted. I asked him about that when we visited in the office, and he did not have an answer that I found convincing or credible.

Finally, the debt ceiling. We are going to confront within a few months the debt ceiling of the United States—our willingness to honor the obligations of the debt that has previously been incurred. The full faith and credit of the United States shall not be questioned is something that is very important. I think it is in the 14th amendment to the Constitution. Certainly, that has been our example that we have set around the world; that we have strong credit and no one can ever question whether the United States will stand behind its debts.

Congressman MULVANEY has often taken the position that the United States could default on debt and then prioritize which debts it would pay. That happens in the commercial space sometimes. Sometimes it is an intentional tool and sometimes it is an accidental tool and we have bankruptcy

laws to allow the prioritization of debt. The United States does not repudiate its debts, and we should not flirt with something like a debt ceiling and suggest that we are going to repudiate our debts.

In closing, I am troubled by the nominee's opposition of bipartisan budget efforts. I am troubled by an ideological position that says we could potentially default on our debts or flirt with shutting down the government to achieve my way on this or that issue. For those reasons, I would oppose him.

His public service in Congress is something I respect, and I respect the fact that he has been returned to the body multiple times by his voters. That should be worthy of respect as well, but in terms of being the chief budget official for the United States, I do not think he has demonstrated the ability to do that and to keep America's fiscal policy and reputation sound.

For those reasons, I will oppose him. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROUNDS. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

#### REMEMBERING CLINT ROBERTS

Mr. ROUNDS. Mr. President, I rise today to commemorate the life and legacy of Clint Roberts, who passed away in the early morning hours of February 13 at the age of 82.

Clint is a former Member of the U.S. House of Representatives, the South Dakota State Senate, and a former South Dakota secretary of agriculture. He helped give birth to the Conservation Reserve and the Conservation Reserve Enhancement Program, which have been extremely beneficial to farmers, ranchers, and landowners, not only in South Dakota but across the country. These programs helped increase farm and ranch family incomes at a time of great economic turmoil.

But more importantly, Clint was a mentor and a hero to me and to many others and, I am proud to say, a lifelong friend to me and Jean. I have always looked up to Clint and sought him out for advice.

I first met Clint when I was an intern in the South Dakota State Senate in 1976. He was serving in a leadership position. He taught me many valuable lessons over the years about politics, policy, family, and public service, just to name a few. He also is credited with introducing me to that exquisite combination of water and Scotch over 40 years ago at the Kings Inn in Pierre.

Clint grew up on a ranch near Presho, SD, in Lyman County, and never let go

of his cowboy roots, his hat, or his boots. He was an iconic symbol of a cowboy and of the Wild West, so much so that he was one of the finalists to be the "Marlboro Man" in the mid-1970s. He also appeared in minor roles in films and even in a Super Bowl commercial.

But even off camera, he was a cowboy through and through. He was down to earth, a straight shooter, and a practical conservative who believed in freedom and helping those in need. He was also a problem-solver who fixed what was wrong instead of just talking about it.

He was one of the true conservationists in South Dakota, promoting wildlife and conservation on his operating farm and ranch. He taught many the importance of the CRP, or the Conservation Reserve Program, and preserving our natural resources. During pheasant hunting season, he always opened his ranch to hunters, and loved making his secret recipe for chili for all to enjoy. But most of all, he understood the importance of family. He was a great husband to Bev, a father, grandfather, and great-grandfather, and he was a great friend to all who knew him. He had a tremendously positive impact on the many thousands of people whom he met and touched with his kindness, selflessness, and generosity. South Dakota is truly a better State, and we are a better people because of his hard work and dedication to making things better.

With this, I welcome the opportunity to recognize and commemorate the life of this public servant and my friend, Clint Roberts. We will treasure his legacy for years to come.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. MORAN. Mr. President, I ask unanimous consent that I have the opportunity to speak as in morning business.

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

Mr. MORAN. Mr. President, I ask unanimous consent that I be able to express my entire remarks during this period of time.

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

#### REMEMBERING LADD SEABERG

Mr. MORAN. Mr. President, Ladd Seaberg, a Kansas resident whose home was in Atchison, KS, passed away on Kansas' 156th birthday. My State lost an individual who epitomizes all that it means to be a Kansan.

Throughout his life, Ladd was dedicated to serving his family, his friends, his colleagues, and his hometown of Atchison.

Atchison is along the Missouri River, the Kansas River, and right on the border with the neighboring State. They have a long history in that community, and he and his family have had a long opportunity, which they have taken advantage of, to benefit the citizens of that community. He fought a courageous fight with a terrible, progressive neurodegenerative disease, and he was laid to rest last week.

As a stalwart figure of Northeast Kansas who worked at MGP Ingredients for 40 years, he will long be remembered for his character and his leadership. Most everything good in Atchison involved Ladd and his family.

Ladd was not born a Kansan. He was born in West Texas and graduated from Texas Tech University, where he met his wife Karen Cray during a national science fair put on by the U.S. Air Force. Naturally, they both won first place awards at the fair, and later moved to Karen's hometown of Atchison, where they made their life and raised their family.

With a degree in chemical engineering and the mind of a true engineer, he had a passion for understanding the way things work on a mechanical level. His love of tinkering led him to a long-time hobby as an avid amateur radio operator.

Upon moving to Atchison, he began working at MGP as a distillery production manager. During his first 11 years there, Ladd rose to become the company's president and later CEO and, then, chairman of the board. He had an integral role in bringing the company public, when it became listed on Nasdaq's exchange.

Ladd and his beloved wife Karen, who now serves as MGP's board chairwoman, were blessed with two daughters and six grandchildren, who still live in Kansas today.

Beyond his leadership at the company MGP, where his intelligence and encouraging management style will long be remembered, Ladd contributed on numerous boards and to even more organizations that improve the lives of those who live in the community and around the State. To name but just a few, he was a founding member of the International Wheat Gluten Association, separately represented the U.S. grain community at the World Trade Organization meetings, and was a board member of the Kansas Chamber of Commerce and Industry.

He was also one of the original founders of the Atchison Area Economic Development Council, a longtime member of the Historical Society, and a former chairman of the Atchison Area Chamber of Commerce board.

Ladd's leadership was indispensable on the Amelia Earhart Memorial Bridge committee to construct a new bridge in 2012 across the Missouri River named for a fellow pilot and fellow Kansan, Amelia Earhart, one of our State's proudest daughters.

He cared deeply about education in his community, as evidenced by the

recognition he and his wife received from Benedictine College, the Cross of the Order of St. Benedict, the institution's highest honor. His faith also played a significant role in his life, having served as an elder and deacon of the First Presbyterian Church of Atchison.

One can hardly overstate what he meant to northeast Kansas, as Ladd always sought opportunities to serve his fellow Kansans. He was a mentor to many and gave of himself to all who were fortunate enough to pass his way.

I appreciate his contributions to our State, and my prayers have been with his wife and family, father and grandfather. It is sad that Ladd was laid to rest, but may he rest in peace.

#### APPROPRIATIONS PROCESS

Mr. President, there is a lot going on in the Senate, and I am grateful for that. I hope we can resolve our differences and begin to work on policy. Personnel do matter. But what I want to highlight, as we look at the agenda for the Senate, when we look at an agenda for this Congress and the Federal Government, is the appropriations process.

One of my goals as a Member of the Senate—I didn't expect this when I was elected; I didn't expect there to be a problem—what I want to see is the Senate function. All 100 U.S. Senators, whether they are Republican or Democratic, ought to take a great deal of responsibility for seeing that this place, the U.S. Senate, gives each Senator the opportunity to present his or her ideas, to represent his or her constituents, and to make a difference on their behalf. One of the ways we can do this is in the way that we appropriate money.

The appropriations process is important. At the moment, we are operating under a continuing resolution that expires in a few months. We have had lots of conversations about the first 200 days of this Congress, the first 100 or 200 days of the administration. We have talked about the importance of confirming Executive nominations. We have talked about the importance of dealing with the consequences of the Affordable Care Act. We have talked about the need and the desire to repeal regulations that are onerous and damaging to our ability to create jobs. We certainly have talked about the need to do an overhaul in a comprehensive way of the U.S. Tax Code.

I want to raise to my colleagues' attention and hopefully generate awareness about one of the things that seem to be missing in that discussion about what our agenda is or should be, which is the necessity of doing appropriations bills.

The way this place is supposed to work is that by law, by April 15, we are to have passed a budget, and then 12 separate appropriations bills march their way through the Appropriations Committee and come to the Senate floor, where they are available for amendment, discussion, and debate by every Member of the Senate. We ulti-

mately pass each of those 12 appropriations bills and send them to the House or vice versa. Those 12 appropriations bills fill in the blanks.

Unfortunately, what has happened way too often is we have gotten in the habit of passing something we call a continuing resolution. Continuing resolution means that we are going to fund the Federal Government, its agencies and departments, at the same level of spending next year as we did this year. That suggests that there is no ability to prioritize how we should spend money. That is poor government. In fact, if you have had continuing resolutions year after year, the priorities of spending that were in place 2, 3, 4 years ago have become the priority of spending next year.

In my view, it would be a terrible mistake for us to reach the conclusion that we can do no better than a continuing resolution in the appropriations process this year that takes us to the end of the fiscal year. It is not just about priorities; we need to get spending under control. In fact, the appropriations process has generally done that. There is a reasonably flat line in the growth of government spending on the discretionary side, the things that the Appropriations Committee deals with, the things that we as Senators deal with on an annual basis.

In addition to determining priorities and levels of spending, another reason this is important is that it is our opportunity to influence decisions made by various agencies, departments, and bureaus of the Federal Government.

In my view, the Constitution of the United States created the Congress—the congressional branch, the legislative branch—for reasons of trying to restrain Executive power. When we do a continuing resolution, we leave so much discretion, so much power in the executive branch. It doesn't matter whether it is a Republican President or a Democratic President, Congress is here to protect the American people from an ever-encroaching desire on any administration to garner more power and to make more influence in the Nation. Congress has the ability, if we will use that ability, to restrain Executive action. We are going through a series of Congressional Review Act procedures in which we are rejecting regulations made in the final days of the past administration.

A more effective long-term approach to dealing with the expansive nature of the bureaus, departments, and agencies is to have an appropriations process in which the agency head, the Cabinet Secretary, or the bureau chief knows that his or her relationship with Congress may determine how much money he or she has to spend within that agency. If we do a continuing resolution, there is little reason for an agency head, a Cabinet Secretary, or a bureau chief to pay attention to Congress, and that is contrary to the constitutional provisions giving us the responsibility to appropriate money, and

it continues the practice of an administration expanding their role in the lives of Americans and its businesses.

We need an appropriations process different from just a continuing resolution. We need to have the opportunity for agency heads to know that the appropriations process is going to matter to them. It causes them to have conversations and discussions with us, gives us the ability to tell an executive branch official: This doesn't work in my State. This is very damaging. This rule or regulation you are proposing is harmful. Can you go back and do it in a different way? Do you understand what this means in this circumstance?

Again, our leverage to have those conversations is often whether or not we are going to appropriate money and what that level of spending will be for that agency.

The other aspect of this is that in the absence of that dialogue and change of heart by that agency head, we then have the ability to say as a Congress that no money can be spent to implement this idea, this regulation, this rule.

While we focused attention—rightfully so—on the Congressional Review Act and its ability to limit and in this case repeal and reject regulations, the long-term ability to rein in any administration that exceeds its authority and operates in a way that develops regulations that lack common sense or an appreciation of how they might affect everyday Americans is through the appropriations process, and a continuing resolution will once again take away the constitutionally mandated, the constitutional responsibility we have in doing our jobs to protect the freedoms and liberties of the American people.

We have had a lot of conversations about what we are going to try to accomplish. One of the things that I want to make sure is on the agenda is, when the time comes, which is now, the conversation is—I hope the conversation is not “Well, we have run out of time. We are just going to do another continuing resolution and fund the Federal Government for the next few months at the same level as we did last year.” We need to exert our authorities to make sure the American people are out of harm's way from what government can do. The Constitution was created to protect Americans from an ever-expansive government, and it only works when Congress works.

The time is short. We hear that the administration is going to offer supplementals or amended requests for additional spending, especially in the defense arena. We need to get our appropriations work completed so that they have an opportunity to supplement, to make suggestions to Congress about what that appropriations bill should finally look like. We are close to failing in our responsibility to do that. Congress needs to do its work.

All 100 Members of the U.S. Senate can have their opportunity to have

input in how money is spent. We can defend and protect the taxpayer; we can defend and protect the consumer; we can defend and protect the job creator; we can defend and protect the employee—but not if we don't do our work, not if we don't do appropriations bills and we rely once again on this technique of shrugging our shoulders, throwing our hands in the air, and saying that the best we can do is tell an agency that their spending authorities will be the same next year as they were last year.

We need to do our work. We need attention. The appropriations process should begin. And I ask my colleagues to give serious thought to helping accomplish that.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. COTTON).

## EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The majority whip.

Mr. CORNYN. Mr. President, earlier today the Senate moved forward with the President's nominee to head up the Office of Management and Budget, Congressman MULVANEY. Congressman MULVANEY spent years representing the people of South Carolina and has been thoroughly engaged on budget issues during his time in the House of Representatives.

He has highlighted the fact that the Federal Government is on an unsustainable fiscal path if nothing changes in Washington, DC, and that it is reckless to keep running up the Nation's credit card with trillions in more debt and unfunded liabilities, not to mention the immorality of passing down to the next generation the obligation of actually paying that money back.

So Congressman MULVANEY is actually, I think, a very good choice for this critical role, and I look forward to voting on his confirmation soon.

## TRADE

Mr. President, I want to weigh in briefly on the issue of trade. During the Presidential campaign and since then, there has been a lot of talk about international trade. It has led to a healthy debate about lopsided trade deals—whether bilateral trade deals or multinational trade deals actually are better—and how best to leverage trade to help American workers and consumers.

In my State of Texas, there is no question trade delivers in two ways. One, it helps Texas families stretch their paychecks by providing greater access to more affordable goods. That

is a good thing. And two, it helps our farmers, our ranchers, our small businesses, and other manufacturers access more customers around the world.

Texas continues to lead the Nation as the top exporting State, and it has done so for about a decade now. It is one reason our economy has done better than the national economy in recent years. And it is estimated that Texas trade supports more than 1 million jobs currently.

But it is important to understand that our economic partnership with Mexico has been a key part of that success, and that is thanks, in part, to the North American Free Trade Agreement, or NAFTA, the trade deal between the United States, Mexico, and Canada.

Our southern neighbor is our largest export market, with more than one-third of all Texas goods—including ag products and manufactured goods, to the tune of close to \$92 billion a year—heading south of our border because of NAFTA and trade. Well, this may not be universally true around the country, but suffice it to say that in Texas, NAFTA has been a big success for our economy. And because Texas has been leading the Nation in terms of economic growth and job creation, I think it is fair to say that it has helped the Nation as a whole not recede into a recession with the anemic growth rates that we have seen since 2008.

It is not just that my State benefits from the deal. The agriculture industry across the country benefits greatly. Mexico is one of the biggest buyers of crops grown in the United States, like corn. In fact, Mexico is the third biggest export market for American agriculture.

NAFTA is not just critical to my State, but for those far away from the southern border, as well, like Ohio and Michigan, which export a majority of their goods to NAFTA partners. I think it is important to acknowledge the fact that roughly 6 million jobs in the United States depend on bilateral trade with Mexico.

But here is the truth: The world looks a lot different today than it did 20 years ago when NAFTA was negotiated, and there is ample opportunity to work with our partners to craft a better deal for the United States. We can update it to be even more constructive and an even bigger driver of the U.S. economy.

Trade is essential to our economy, and I believe the administration agrees with me on that. In my conversations with Mr. Ross, who will head up the Department of Commerce, and others—the trade negotiator and the like—they all tell me that this administration is pro-trade, although they are skeptical of large multinational trade deals like the Trans-Pacific Partnership.

We have also recently heard the President himself talk about the importance of our relationships with countries like Canada and Japan. During the visits of the Prime Ministers of

each of those countries in the last week, with both heads of State, the administration continues to stress the importance of robust trading partnerships. And the President has made it clear that he supports those.

I believe that good trade deals help everyone, so I want to be clear that the United States is not retreating from the global economy, as if we even could. With more than 95 percent of the world's consumers outside of our borders, our citizens rely too much on free trade and fair trade to turn inward and retreat.

Texas certainly proves that trade deals can help everyone from manufacturers to farmers, to small businesses, all of whom find more markets for the goods they make or grow. That, in turn, creates more jobs and provides greater access to more goods for consumers. And it is a good example for the broader U.S. economy as well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, I rise in strong opposition to the nomination of Congressman MICK MULVANEY to be the Director of the Office of Management and Budget. Based on his appearance before the Senate Budget and Homeland Security Governmental Affairs Committees, he appears to be a smart and articulate individual, but after examining his record and his testimony, I believe he lacks the fundamental judgment to serve in this important role.

Mr. MULVANEY's tenure as a Member of Congress has been marked by symbolic stands and stunts that have been most successful in generating bipartisan opposition rather than support. Until now, it has mattered little whether his proposals have been motivated by firmly held principles or other motives. We have just been fortunate that few of Mr. MULVANEY's ideas have been made into law. However, with an appointment to a position of real authority at OMB, Mr. MULVANEY will have great power to put his ideas into practice. For that reason, it is worth reflecting on the positions he has taken.

At times of national fiscal and economic turmoil, Congressman MULVANEY could consistently be found among those stoking the flames of pandemonium in order to advance a partisan or ideological point. Indeed, he was among those Republican Members of Congress who cheered efforts to force the country to default on our financial obligations in 2011, dismissing the domestic and global alarm over Republican brinkmanship as "fear mongering" and as promoting a "fabricated crisis."

In 2013, he voted to support the Republican shutdown of the Federal Government, which ultimately cost American taxpayers \$2 billion in back wages for Federal workers who were locked out of their jobs. In addition to this and other fiscal waste, the 16-day shutdown hurt the economy. Moody's estimated that it "cut real GDP by \$20 billion, shaving half a percentage point off growth in the fourth quarter [of 2013]."

In 2015, Mr. MULVANEY was part of another Republican shutdown effort. This time it was to shutter the Department of Homeland Security to protest President Obama's immigration policy. Thankfully, House Republicans relented before the shutdown took effect. Otherwise, the closure would have caused about 30,000 furloughs and about 200,000 other people, including Coast Guard personnel, TSA, ICE, Border Patrol and Customs officers, to report to work, most of them without the promise of a paycheck.

When Americans have suffered natural disasters, Mr. MULVANEY has shown himself among those who are the least sympathetic about providing Federal assistance, insisting, for example, that emergency aid for the victims of Hurricane Sandy should be offset. He has at least been consistent in this regard, since he voted against similar aid to his home State of South Carolina. Of course, his opposition in that instance was mainly symbolic because it was a foregone conclusion that the bill would pass. But this should give every American pause. Mr. MULVANEY's record of supporting brinkmanship and his responses to written questions show that his first instinct will be to use any one-time emergency as an opportunity to force lasting budgetary cuts.

I am also concerned about Mr. MULVANEY's intentions with regard to the elimination of the sequester-level budget caps. In 2013, with sequester cuts on the horizon, Mr. MULVANEY ruled out revenue increases or scaling back the sequester. He said: "We want to keep the sequester in place and take the cuts we can get."

As the nominee to OMB director, Mr. MULVANEY now believes, like President Trump, that the sequester caps should be lifted for defense, but he has made no allowance for nondefense discretionary programs and agencies, including the FBI and the Department of Homeland Security. Mr. MULVANEY has thus far failed to grasp that there is simply no way to secure support for sequester relief without addressing both the defense and nondefense sides of the ledger. Moreover, he has not recognized that it is repugnant to many to suggest that one side of the budget can be cannibalized to fund the other side. The best way to fund sequester relief is through the proven combination of additional revenue and reasonable cuts. It has worked before, and we should look to that solution again.

We should also reject efforts to use Overseas Contingency Operations ac-

counts, or OCO funding, to fill the gap when it comes to defense spending. It is not a legitimate tool to fix the sequester. Despite my many disagreements with Mr. MULVANEY, this is one point where we do appear to see roughly eye to eye in terms of using the OCO for those overseas contingencies they were designed to fund.

Where we disagree most vehemently is on the matter of core programs that help Americans lift themselves up so they can participate fully in our economy and society. Although he has recently changed his position, Mr. MULVANEY, as a State legislator, voted for legislation that questioned the constitutionality of Medicaid and Social Security, and today he still questions the constitutionality of Federal involvement in education. This is more than a philosophical stand. His position will color how the administration invests in schools and students over the next 4 years. I am especially disturbed that Mr. MULVANEY is not even willing to commit to protecting funding for the Pell Grant Program and to reducing college debt, a burden faced by students and their families all across this country.

I have also been disturbed by Mr. MULVANEY's cavalier position about benefit cuts to Social Security and Medicare, by such measures as increasing the retirement age. Let's be clear. When you force a person to wait 2 or 3 more years to begin collecting the full benefits they have earned, it is a cut. If poor health or lack of job prospects forces a person to begin collecting benefits before reaching the normal retirement age, he or she will see a significant reduction in monthly benefits.

These cuts fall heaviest on the most vulnerable—low-income workers and workers in the most physically demanding jobs, those who simply cannot continue to work for another few years. We can make changes to sustain these programs without the deep cuts to benefits that Mr. MULVANEY would promote.

In this one area, I would hope the President could prevail over his staff. Many times during the campaign, President Trump promised to protect Social Security and Medicare. In fact, last March he said: "It's my absolute intention to leave Social Security the way it is. Not increase the age and to leave it as it is."

It remains to be seen how sincere the President is on this issue. Last month, he was effectively rebuffed by 49 Republicans who voted successfully to kill Senator SANDERS' amendment to create a point of order that would prevent the Senate from breaking President Trump's promise that "there will be no cuts to Social Security, Medicare, and Medicaid."

Unfortunately, the President said nothing about this vote, which should lead all Americans to ask how committed he is to his promise. His choice of Mr. MULVANEY also leaves me concerned that he is not sincere about this

promise, since Mr. MULVANEY seems clearly intent on making cuts to these vital programs.

Mr. MULVANEY has also proven himself unsympathetic to the challenges facing working men and women in this country. He has sponsored legislation to bar the Federal Government from requiring project labor agreements. He has voted to repeal Davis-Bacon prevailing wage requirements, and he has cosponsored legislation to undermine the ability of workers to collectively bargain.

Moreover, Mr. MULVANEY failed to pay more than \$15,000 in unemployment and FICA taxes for a household employee between 2000 and 2004, only making good on that obligation during his nomination process. Even if this could be characterized as an oversight, it is worth noting that Mr. MULVANEY has previously proposed legislation to bar tax delinquents from serving in elected office in South Carolina and to authorize supervisors of Federal employees to take punitive action against workers who have failed to pay taxes.

One wonders how Mr. MULVANEY would feel about the fitness of a Democratic nominee with a similar challenge.

Finally, let me say a few words about Mr. MULVANEY's laissez-faire approach to regulation, particular the oversight of Wall Street. I believe strongly that the lack of effective regulation, the lack of oversight, and the lack of appropriations for the financial regulatory agencies contributed heavily to the great recession, which is why I worked so hard to support the adoption of the Dodd-Frank Wall Street Reform and Consumer Protection Act, including the creation of the Consumer Financial Protection Bureau (CFPB).

Mr. MULVANEY, not surprisingly, takes a different view. As a member of the Financial Services Committee in the House, he said: "I don't like that the Consumer Financial Protection Bureau exists." The CFPB is a consumer-focused agency that has brought nearly \$12 billion in refunds and restitution to consumers for Wall Street's abuses. This includes more than \$120 million that have been returned to our military families through the efforts of the Bureau's Office of Servicemember Affairs, which I worked with Senator Scott Brown of Massachusetts to establish.

Because of the Dodd-Frank Wall Street Reform and Consumer Protection Act, working Americans have an advocate in the consumer finance marketplace that is laser-focused on protecting them. Mr. MULVANEY would prefer to transform this agency into a paper tiger that is subject to partisan political pressure and influence from the various industries it is attempting to police. We should not allow him the chance to do that from a perch at OMB.

The country has been fortunate that House Republican leadership, with good reason, in my view, did not reward Mr. MULVANEY with a position of

authority from which he could exercise real control. Unfortunately, the promotion that President Trump has offered would give him great power—power that will ultimately, I believe, be destructive in his hands. As a result, I urge my colleagues to oppose this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I am honored to follow my distinguished colleague from Rhode Island who has been such a champion for working people and economic progress in manufacturing and economic fairness so that our country as a whole can advance together.

I am proud to be a Senator who fights to preserve, protect, and strengthen the safety net for all Americans, as my colleague from Rhode Island does, and many of us here do. So I come to the floor to speak on Congressman MICK MULVANEY, with reluctance and sadness, because he is out of the mainstream and, really, an adversary of programs that assure that safety net and basic fairness that is at the core of our great democracy and our economic system.

I oppose his nomination to serve as Director of the Office of Management and Budget, hardly the best known of agencies and not necessarily the most glamorous or glitzy but among the most important. His position is among the most consequential because he serves as an economic adviser, as well as an allocator of funding throughout the Federal Government and a leader on important social programs.

He has proved strongly antithetical to those programs that have made America great: Medicare, Social Security, and other efforts, including the Affordable Care Act, which are essential to our future.

He has broad responsibilities for our Nation's budget. He also has important oversight responsibilities about Federal rulemaking—those unglamorous, sometimes invisible regulations and rules that affect real lives and livelihoods throughout this country. They establish rules of the road in industry. They establish access for people to Federal programs. They provide an essential means of achieving fairness in our democracy—that important process that agencies use to enact safeguards, for example, that keep our air and water clean and our workplaces safe.

Congressman MULVANEY's positions on these vital issues are out of step with American values, out of the mainstream of American popular opinion, and out of the area of acceptability in terms of basic public interest.

Our economic reality is characterized by one simple stark economic fact: Burdens are falling hardest on the people who can least afford them. I am not talking about people at the lowest rungs of income or wealth but middle-class Americans who work hard and

who have seen their incomes stagnant over 5 years, 10 years, 20 years. Stagnating incomes and stagnating futures destroy the American dream.

So the Federal Reserve, for example, has reported in 2014 that average incomes have remained flat or fallen for all but the most affluent 10 percent of American families. That is a staggering fact about our economic system and its ability to deliver for Americans generally. That is the context for this nomination. I consistently hear from my constituents in Connecticut that income has failed to keep pace with overall economic recovery. Even as Wall Street has risen, Americans see nothing but stagnant income, sometimes falling economic prospects. Things have gotten better, but good jobs are still out of reach for far too many.

Retirement for increasing numbers of baby boomers makes it all the more vital that we protect and strengthen our safety net. The safety net is not the sole answer to larger challenges that must be solved by robust economic growth. That has to be our priority—economic growth in Connecticut and around the country. But increased opportunity depends on growth for ourselves and for our children—my wife and my four children and our way of life.

In fact, President Trump himself seemed to recognize this economic fact, one of the few areas where we agree, because he pledged during the campaign to keep our Nation's safety net firmly, irrevocably intact—not to make any cuts to Social Security or Medicare. He pledged and promised.

Now, who is his nominee to be head of the OMB, that crucial agency with responsibility for Social Security, Medicare, and Medicaid? MICK MULVANEY has an affinity for draconian budget cuts and far-right positions that are completely out of step with this promise and pledge.

The President must have reversed himself or revoked his promise, because Congressman MULVANEY has spent his entire political career crusading against exactly these programs that keep millions of Americans out of poverty. Social Security is one of the great achievements of our American democracy. In fact, it is one of the greatest achievements the world has known because it has allowed this Nation to promise its people that they can avoid crushing poverty if they simply work hard and if they contribute to this program that is a form of insurance.

It is not a gift. It is not really an entitlement. It is an insurance program. It makes us a humane and decent nation. We care for people who have worked hard all of their lives and need to be protected so they need not depend on their children or their grandchildren.

Congressman MULVANEY has called Social Security a "Ponzi scheme." Tell that to the Social Security recipients

in Connecticut. Tell that to the working people of Connecticut. He is out of step with working people and middle-class people who know that Social Security does not contribute to the Federal budget deficit, and it is not the Ponzi scheme that Congressman MULVANEY mischaracterizes it as being.

It is fashionable on the far right to use that characterization, suggesting it will run out of money unless severe restrictions are put in place. He has championed those kinds of restrictions—means testing, for example, and raising the retirement age. Those proposals are a disservice to hard-working Americans who reach that retirement age having been promised that they would receive Social Security when they did or work hard to make Social Security work for them, without a means test, without anybody asking them to fill out forms or disclose their incomes and establish standards or tests that make them ineligible.

It is true that there are changes to these programs that may be necessary. In fact, I proposed a plan for enhancing Social Security, making it a stronger insurance program by raising the cap on the payment of taxes that are due and other kinds of reforms that will more properly allocate the burdens but not means-testing, not raising the retirement age, which are radical and draconian favorites of the far right. Lifting the payroll tax cap so the wealthiest Americans contribute their fair share, as I have proposed, will keep this program solvent for decades into the future.

The only reason to reject the commonsense changes I have proposed is a political aversion to raising taxes on anyone at any time, even the wealthiest individuals or the most powerful and profitable companies, which is the mantra of people who have climbed the ladder and want to raise it so that no one else has access to those top rungs. It makes no sense to me that we would ask great sacrifices of our senior citizens but do nothing about eliminating the loopholes that privilege some of the most affluent people and the largest and most profitable companies in the world.

We should not and must not use the Social Security trust fund as a means to pay down the debt or reduce the deficit or gamble with the hard-earned benefits 61 million Americans rely on during their retirement. Those 61 million Americans, who come from all of the States and all over the Nation, are represented in this Chamber, and they deserve better than MICK MULVANEY's far-right radical ideas that would restrict their Social Security. He fails to recognize this reality and would prevent Social Security from continuing to flourish and provide the stability so essential to this great Nation—already the greatest Nation in the history of the world because of programs like Social Security and Medicare.

Speaking of Medicare, Congressman MULVANEY's proposal for Medicare also

betrays the President's promise to leave Medicare intact. He has been vocal, absolutely frank about his support for tearing down Medicare, going as far as to say: "We have to end Medicare as we know it." Do we really have to end Medicare as we know it, tear it down, destroy it? That is what MICK MULVANEY says. That betrays President Trump's promise to keep Medicare intact.

MICK MULVANEY has also supported proposals to privatize this lifesaving healthcare program by turning it into a voucher system, which would effectively gut its promise of guaranteed health benefits. A "voucherized" Medicare would be devastating for our Nation's seniors. Many of them are already on fixed incomes. This plan would allot them a fixed amount of funds—fixed funds to purchase all of their health insurance, which would result in higher premiums and increased out-of-pocket costs. Connecticut seniors deserve better than MICK MULVANEY's efforts to restrict Medicare in such a disruptive and destructive way.

Congressman MULVANEY's actions and statements on Medicare point to a future budget director who has no intention of keeping the President's promise to protect this crucial health program. This country counts on its next budget director to prioritize facts and responsibilities and the public interest above political games; to rely on real facts, not alternate facts.

Our budget, our deficit, our national debt are, in fact, fact-bound and fact-based. The world relies on real facts when it looks at the American economy, and the people who work in that economy, whether they are young or old, veterans or civilians, depend on real economic growth. Yet Congressman MULVANEY's reckless approach to fiscal issues has jeopardized this country's stability, causing real danger for the sake of ideology. That approach in the Congress has led to uncertainty and unpredictability, which are the bane of small- and medium-size businesses, which are, in turn, the major job creators in our society and economy.

Congressman MULVANEY's extreme views already have negatively impacted the American economy. While in the House of Representatives, he led efforts to leverage the threat of a government shutdown as a tactic to push for specific demands, which included radical anti-choice policies, measures antithetical to women's healthcare and the right of privacy, including defunding Planned Parenthood.

As one of the most senior economic advisers to the President and the head of OMB, he would have immense responsibility to influence this administration and the President. His outright disregard for the harm caused by a government shutdown—a tactic that jolts and jeopardizes our economy and disrupts the lives of millions of Americans—should itself alone disqualify

him from this critical role within the Federal Government.

He also sought government shutdowns as well to block the implementation of the Affordable Care Act, which has helped so many people in Connecticut receive the coverage and care they need. I could spend a lot of time talking about the benefits people in Connecticut have received from the Affordable Care Act. Its future is key to the financial future of this country, but MICK MULVANEY has consistently advanced misconceptions and mistruths about the nature and functioning of this law.

Again, we can agree to disagree on policy, but misrepresenting the truth and relying on alternate facts is exactly what the budget director should not be doing. He is the one whom we rely on for real facts about our economy and our budget.

Even more worrying was Congressman MULVANEY's archaic approach to addressing the debt ceiling. In the face of all evidence, he flatly stated that he did not believe this country would default on its debt as a result of the failure to raise the debt ceiling. Economics 101: The debt ceiling, if it is not extended—that means a default.

Experts across the political spectrum agree that a breach of the debt ceiling, and consequently our Nation's full faith and credit, would be catastrophic. I am absolutely unable to vote for someone who fails to recognize that basic economic truth and takes this threat so lightly.

Finally, Congressman MULVANEY has demonstrated a near reflexive hostility to Federal agencies and the important work they do. As with so many of the President's nominees, unfortunately, he seems to be hostile to the very mission and purpose of the agency he is going to lead—whether it is the EPA or the Department of Labor or other agencies where nominees have taken stands that, in effect, say: Let's dismantle and destroy this agency. Yet they are the ones who are supposed to be leading and inspiring its efforts.

I believe that government could be more efficient and responsive. Waste ought to be eliminated. Fraud ought to be prosecuted. I am eager to work with my colleagues on good-faith proposals to achieve these goals.

Federal agencies remain vital to important public purposes that people cannot achieve on their own. They cannot clean our air and water on their own. They cannot ensure public safety through policing on their own. They cannot make sure our national defense is strong on their own. A whole myriad of functions depend on a functional Federal Government. Commonsense rules that prohibit excessive pollution or unsafe working conditions protect all of us.

As the head of OMB, which includes offices that oversee Federal funding, he has a responsibility to make sure that rules are enforced and that people are protected. Yet he has opposed the existence of the Export-Import Bank, an



institution that is critically important to so many of our job creators, big and small businesses in Connecticut and around the country.

He opposed emergency funding for the victims of Hurricane Sandy, despite the devastation caused by this terrible storm, which was unleashed in Connecticut and nearby States.

He has questioned the need for government-funded research, despite the myriad advances in science and medicine that have come from government laboratories and research institutions.

His record shows that he would be the wrong person for this job, harming our safety net and our fiscal stability. I oppose his nomination, and I urge my colleagues to do the same.

I yield the remainder of my postcloture debate time to Senator SCHUMER.

The PRESIDING OFFICER. The Senator has that right.

Mr. BLUMENTHAL. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, I yield my postcloture debate time to Senator SCHUMER.

The PRESIDING OFFICER. The Senator has that right.

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

The PRESIDING OFFICER. The Senator from Arizona.

#### NOMINATION OF NEIL GORSUCH

Mr. FLAKE. Mr. President, as I did last week and as I will continue to do until he is confirmed, I rise to support the nomination of Judge Neil Gorsuch to serve on the Supreme Court. Judge Gorsuch is an accomplished, mainstream jurist. I look forward to helping make sure he receives an up-or-down vote here on the Senate floor.

After meeting with Judge Gorsuch and learning more about his judicial philosophy, I continue to be impressed by his humble respect for the law and by his commitment to service.

Before the Judiciary Committee begins our hearings, I want to highlight aspects of his jurisprudence that qualify him to serve on our Nation's highest Court and make him an ideal candidate to fill such a consequential position.

Earlier this month I spoke about his fitness to fill Justice Scalia's seat, as well as his respect for the separation of powers. Today I would like to focus on his approach to religious freedom.

I have always supported religious freedom as a universal principle. It doesn't matter if we are defending our own First Amendment right to the free exercise of religion here at home or standing up for the religious freedoms of people under repressive regimes abroad, our country has always valued the right of individuals to practice their faith as they please.

Just as religious freedom is part of our national character, it also provides insight into the character and judicial philosophy of a prospective justice. When I had the privilege of meeting

with Judge Gorsuch last week, I asked him about his thoughts on religious freedom. I was struck by his ability to plainly articulate his understanding of the law and the Constitution. He explained his religious liberty opinions by telling me that he simply went "where the law led him." His explanation was indicative of his fundamental approach to interpreting the law. Judge Gorsuch doesn't make the law; he follows the law. He reads the Constitution as the Framers understood it. He interprets laws the way they were written.

Lately, our colleagues on the other side of the aisle have been vocal about the importance of respecting our independent judiciary. I couldn't agree more. They have decried the perils of discriminating on the basis of religious belief. Well, they are in luck. The Supreme Court nominee before us would be a staunch defender of independent courts and religious freedom. All they have to do is help us confirm him.

I don't blame them for wanting to do their homework on a Supreme Court nominee. They should, as should we all. They will find that studying Judge Gorsuch's record will make for enjoyable reading.

On the Tenth Circuit Court of Appeals, Judge Gorsuch has authored a number of judicial opinions respecting the fundamental principles of religious liberty. His most notable was a concurring opinion in the Hobby Lobby case. In this landmark legal case interpreting the Religious Freedom Restoration Act, Judge Gorsuch ruled that the Federal Government cannot force individuals to assist in conduct that violates their deeply held religious convictions. I note that this law used to be noncontroversial. The Religious Freedom Restoration Act was introduced by Senators Ted Kennedy and then Congressman CHUCK SCHUMER. It was passed almost unanimously in 1993 and signed into law by President Bill Clinton.

In his concurrence, Judge Gorsuch wrote: "The [Religious Freedom Restoration Act] doesn't just apply to protect popular religious beliefs: it does perhaps its most important work in protecting unpopular religious beliefs, vindicating this nation's long-held aspiration to serve as a refuge of religious tolerance."

Religious tolerance—that is what our country stands for, and that is what Judge Gorsuch stands for. Judge Gorsuch's position was later vindicated by the Supreme Court. The Court agreed that it is the government's job to protect an individual's ability to practice their religion, not to instruct them on how to practice their religion.

In closing, let me reiterate that I believe Judge Gorsuch is a mainstream jurist who will uphold the Constitution to ensure justice for all, regardless of an individual's religious beliefs or which administration is in power. As someone who embraces religious freedom, it is a privilege to support and

confirm a judge like Neil Gorsuch, who respects this central constitutional principle. As I have said before, and I will say again, Judge Gorsuch deserves fair consideration by those who serve in this body, and he deserves an up-or-down vote on the Senate floor. He should be confirmed overwhelmingly, and I am confident he will be.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

#### NOMINATION OF ANDREW PUZDER

Ms. WARREN. Mr. President, on December 8, Donald Trump nominated Andrew Puzder to serve as Secretary of Labor. He was scheduled to come before the HELP Committee tomorrow for his confirmation hearing. There is some reporting suggesting that he is having some second thoughts, and I sincerely hope that is true. The reasons Mr. Puzder is a terrible choice for this job are literally too numerous to cover fully, but I will at least give it a start.

If you work for a living, the Labor Secretary is very important to you. This person is responsible for protecting the interests of 150 million American workers. He will be the person responsible for enforcing the law that ensures that employers actually pay workers for every hour they work and setting the standards to prevent workplace injuries and even deaths.

Unfortunately, Mr. Puzder is not the kind of person the American people can trust to stand up for workers. Since 2000, Mr. Puzder has served as the CEO of the billion-dollar company CKE Restaurant Holdings. You may know it better as the parent company of Carl's Jr. and Hardee's. These two fast-food chains are known for paying very low wages to workers. Mr. Puzder has a long record of cheating workers out of overtime. He has paid out millions of dollars to settle claims when he was caught cheating. We are not talking about isolated incidents. They reflect the kind of business Mr. Puzder built. Mr. Puzder is a frequent political pundit and commentator who has vocally opposed higher minimum wages. He has also strongly opposed new overtime protections that would give 4 million workers an estimated \$1.5 billion raise in a single year.

Mr. Puzder also delights in expressing personal disdain for his workers. He bragged in his very first memo as CEO. He wrote that he wanted "no more people behind the counter unless they have their teeth." Ha, ha. He said he would like to replace his workers with robots because "they are always polite, they always upsell, they never take a vacation, there's never a slip-and-fall, or an age, sex or discrimination case."

The Senate has an obligation to hear from those who are best qualified to



tell America about Mr. Puzder's suitability to be Labor Secretary and to stand up for American workers—his own workers. That is why many of us asked the chairman of the HELP Committee to include Mr. Puzder's workers in his confirmation hearing. When the chairman refused to do so, we just went ahead and convened our own forum to allow those workers a chance to speak.

Seventeen Senators attended. Those 17 Senators heard from Laura McDonauld, who worked as a general manager at Carl's Jr. in Tucson, AZ, for 20 years. For years, she was forced to work extra hours without pay. Employees like Laura are the subject of a major lawsuit against Mr. Puzder's company, CKE, regarding unpaid overtime.

Those 17 Senators heard from Lupe Guzman, who is a single mother who has devoted the last 7 years of her life to Carl's Jr. in Las Vegas, NV. She has worked the graveyard shift for rock bottom wages. Seven years of loyalty, and Lupe is still paid so little that she is on food stamps to feed her kids. Lupe sat in front of the U.S. Senate and wept openly about her terrible treatment at the hands of Mr. Puzder's company.

The Senators also heard from Roberto Ramirez, who has worked in the fast food industry for over 20 years, mostly at Carl's Jr. in Los Angeles, CA. He worked regularly off the clock at Carl's Jr., meaning they didn't pay him. Roberto even had a full paycheck stolen by his manager.

For every Laura, Lupe, and Roberto, we found dozens of workers who were afraid to speak out about the terrible conditions at CKE. We compiled some stories from folks brave enough to speak up into a 20-page report detailing firsthand accounts of the men and women who work for Mr. Puzder. Those stories are horrifying, and I will read some of them later today.

Mr. Puzder's company has a truly atrocious record of treating his own workers terribly. Indeed, he has dripping disdain for people who work for a living. This alone disqualifies him to be Secretary of Labor.

But there is more. In recent weeks, it has come out that Mr. Puzder employed an undocumented immigrant in his household for years, and he didn't pay taxes on that employee. Yep, you heard that correctly. The Trump administration, which bellows about building a wall and pounds its chest about ripping millions of families apart with a deportation force, threatens millions of DREAM Act kids with deportation, has no problem putting a guy in charge of the Labor Department who cheats on his taxes and employs undocumented workers. The hypocrisy of that is pretty stunning, even for the Trump administration.

And then there is the controversy over alleged spousal abuse. Over 25 years ago, Mr. Puzder's first wife appeared on an episode of Oprah Winfrey in a show about spousal abuse. I have

watched the episode in which she appeared, as I believe every Senator should. I found it extraordinarily troubling.

Alongside his company's poor record of treatment of female employees, his highly explicit and sexualized ads, and his snide comments about sex discrimination, there is ample evidence that Mr. Puzder is a terrible choice to head the agency charged with ensuring that women and men are treated fairly in the workplace.

I understand that no matter who President Trump picks to run the Labor Department, I am probably going to have a lot of issues with that person, but this is different. Andrew Puzder should not be the Labor Secretary. And if you ask the Senators in this body—Republicans and Democrats—if you ask them behind closed doors with the cameras turned off, you will have a hard time finding people who think this divisive nomination is good for the country.

It has been suggested that Mr. Puzder is "tired of the abuse" that he has received during this confirmation process. Well, I think the workers at his companies are pretty tired of the abuse they have received while being at the mercy of an employer who doesn't care about them at all and who goes out of his way to squeeze them out of every last dime. That is literally the opposite of what we need in a Labor Secretary.

I was prepared to question him on these issues tomorrow, but I hope it is true that he will withdraw his nomination before then.

Mr. President, I also rise today to express many concerns over the appointment of Congressman MULVANEY as Director of the Office of Management and Budget and to urge my colleagues to seriously consider these issues before voting to confirm him.

One of the best ways to understand what a nation stands for is to look at its budget. It is all right there. The budget tells who counts, it tells who gets a chance, and it tells who gets cast aside.

The OMB Director prepares the President's budget. He safeguards the President's promises by turning them into real commitments backed by your tax dollars.

During the campaign, President Trump promised over and over again that he would protect Medicare and Medicaid. He didn't imply it; he didn't drop hints about it. No, he made the clearest, plainest possible promise. He said: "I am not going to cut Medicare or Medicaid."

But since the election, he has done a complete 180. He put up a transition team website that just dripped with code words for cuts, saying that he would modernize and maximize flexibility for these programs. Gone were the unambiguous promises to protect Medicare and Medicaid.

Then he started nominating people who have made it their life's work to gut Medicare and Medicaid. His Sec-

retary of Health and Human Services has proposed cutting more than \$1 trillion from these programs, and now his nominee for OMB Director is someone who wants to cut Medicare and Medicaid to the bone.

Congressman MULVANEY has voted to increase the retirement age for Medicare. Hey, you have paid into that program with decades of hard work? Too bad, just keep waiting.

He also wants to privatize Medicare, and he wants to slash and burn his way through Medicaid—a program that is a lifeline for millions of people—for parents of people in nursing homes, for people with disabilities, for premature babies.

In his confirmation hearing, Congressman MULVANEY was asked whether he would set aside his rightwing ideology to fulfill the President's campaign promises to protect Medicare and Medicaid. The Congressman could not have been clearer in his response: Forget all of that. Nope, not interested. MULVANEY is still a true believer in Medicare and Medicaid cuts, and whenever he has the President's ear, he will continue to advance his own radical ideas for burning down these indispensable programs.

President Trump also promised that he would not cut Social Security. He guaranteed it. Here is his quote—many times: "We're going to save your Social Security without making any cuts," he said.

Here was his closer on that: "Mark my words."

OK. Nice words. But he could have picked someone—anyone—to run his budget, and instead he picked Congressman MULVANEY—one of Congress's most partisan crusaders against the Social Security program. He wants to raise the retirement age to 70. Heck, this is a person who calls Social Security a Ponzi scheme, and, boy, he is not messing around, either.

During his confirmation hearings, Congressman MULVANEY doubled down on his promise to rob American workers and retirees by gutting Social Security. When pressed by Republican Senator LINDSEY GRAHAM about whether he would urge President Trump to reconsider his promise not to cut Social Security, hey, MULVANEY said that he absolutely would.

Is this just a mistake? Did President Trump just pick Congressman MULVANEY by accident? The Congressman certainly doesn't seem to think so.

At his hearing he said: "I have to imagine that the President knew what he was getting when he asked me to fill that role."

Yes, MULVANEY himself believes he is being brought in to push for cuts in Medicare and Medicaid.

Trump reverses his promise, a second person determined to cut Medicare and Medicaid makes it into a key government role, and who will pay the price? America's seniors, that is who.

Apparently, Congressman MULVANEY isn't satisfied with cutting benefits for

Americans who have worked and paid into the program for their entire lives. When it comes to abandoning American workers and families, for him, that is just the beginning.

He has also called the Consumer Financial Protection Bureau “a sick, sad joke.” Maybe he should spend a little more time talking to his constituents and a little less time talking to bank lobbyists.

The CFPB has helped thousands of people in every State—including dozens of people in Congressman MULVANEY’s own district—recover unauthorized fees on their credit cards and checking accounts. It has helped them to correct errors on their credit reports. These are students, seniors, servicemembers, and veterans, who may have spent months haggling with their bank or student loan servicer over a wrong charge, only to get quick and complete relief after they went to the Consumer Financial Protection Bureau.

In total—the agency has only been up for about 5½ years now—it has forced the largest banks across this country, many of those who have been out there cheating consumers, to return nearly \$12 billion directly to the people they cheated. That is \$12 billion that was stolen by big banks, by payday lenders, by debt collectors, and is now back in the pockets of the people who rightfully earned it.

The only sick, sad joke is that Congressman MULVANEY thinks we should turn the big banks loose to prey on American families once again.

Under Congressman MULVANEY’s budget, Americans who have been cheated and scammed by huge financial institutions will just be cast aside. Families who work hard for every dollar, only to have some ruthless corporation steal their savings right out from underneath them, will be cast aside. And the millions of Americans who have worked for decades planning to collect Social Security or Medicare when they retire will be told to just wait four more years. They will be thrown straight to the curb. None of that—none of that—is what America stands for.

That is just the stuff that directly contradicts the President’s campaign promises. The stuff that is totally in line with the President’s campaign promises is genuinely scary too.

On the campaign trail, Donald Trump stated that he “may cut the Department of Education.” Will Congressman MULVANEY stand up for students? Unlikely.

Congressman MULVANEY’s record shows that he is fine building a Federal budget that crushes students who are trying to get a college education. Students already pay too much for student loans, and Congressman MULVANEY’s solution is to force students to pay more. He supports forcing more college students to borrow more money from private banks that charge sky-high interest rates without any of the basic protections Federal student loans have.

He clearly wants to let private banks and Wall Street squeeze as much cash out of hard-working students as humanly possible to build their profits. In fact, Congressman MULVANEY wants to help these giant banks out even more by taking a sledgehammer to the Federal student loan program and making Federal loan terms lousy for students. That is why he repeatedly voted to eliminate subsidized student loans for low-income students and why he helped block legislation to allow borrowers to lower their monthly payments by refinancing their student loans to lower interest rates. Not only has he voted to increase the interest rates the government charges students, he has also voted to cut Pell grants to poor college students. If Congressman MULVANEY had his way, millions more hard-working students would be shoved even deeper into debt at the start of their working lives just because they couldn’t afford the high cost of college. Under his budget, students will just be cast aside.

In his confirmation hearing, Congressman MULVANEY also said he is “in lockstep” with Donald Trump’s plans to grow military spending, but he said he would pay for that increase in funding with deep cuts to domestic programs that working men and women around the country depend on—programs that could easily include Head Start, which provides opportunities for low-income children; the disaster aid, which supports families in crisis after a hurricane or tornado; or resiliency programs to protect America as worldwide climate changes.

Listen to that again. The children who attend Head Start can stay home so Donald Trump can divert more money to military spending. The people who get buried in a 100-year snowstorm can stay buried so Donald Trump can divert more money to military spending. The people who live near coasts and rivers and streams can be washed away by rising oceans and other waterways so Donald Trump can divert money to military spending—and this nominee, Congressman MULVANEY, is in lockstep to make it happen.

Under President Trump’s new one-in, two-out Executive order, it is Mr. MULVANEY who would have discretion to give each agency a regulatory budget and to approve any proposed regulations that increase that budget. The order is supposedly designed to make life easier and to make government work better, but Congressman MULVANEY isn’t interested in making government work better, and he is certainly not interested in making life easier. In fact, he has spent his entire political career working to cripple the agencies that protect American families—American workers, American consumers, and American small businesses. Nowhere is this clearer than in his attacks on the Federal agencies that protect consumers, that preserve our environment, and that help keep

our country safe. He has worked to starve agencies of the resources they need to do their jobs, voting to cut funding to law enforcement, voting to gut the Social Security Program, and voting to completely defund the organization that provides critical legal services to low-income American children, families, seniors, and veterans.

But it is not enough for him to starve agencies to the breaking point. He has also supported radical bills to stop agencies from issuing regulations that keep our air clean, our food safe, and our economy from suffering another devastating financial crisis. Congressman MULVANEY wants to require agencies to adopt a bill that imposes the least costs on big businesses, even when those costs are about making sure companies don’t cut corners by cheating, poisoning, and killing people. Look, if it is cheaper for a corporation to kill you than it is for the corporation to redesign the product or clean up their mess, Congressman MULVANEY stands with the corporation. I am sure he would be willing to say something nice at your funeral about how your contribution helped give the corporation record profits.

If all that wasn’t bad enough, Congressman MULVANEY is ready to rock and roll on secret money in politics. Washington is already awash in dark money, but that is not enough for Congressman MULVANEY. He has worked to open the doors even wider to secret spending in politics. Over and over, he has voted to shield the identity of political donors, keep them secret. For example, he opposed a rule that required corporations applying for government contracts to disclose their political contributions. Again, just think about that one for a minute. He doesn’t want corporations that bid for government contracts to be forced to tell when they give money to help targeted government officials. We already have a problem with money in politics. MULVANEY just wants to make it worse.

Congressman MULVANEY’s record shows one thing. He will make sure our Federal Government works well for giant corporations and billionaires who don’t like to play by the rules, and he will cast aside the rest of the public to do that. That is definitely not what our Nation stands for.

I understand Democrats and Republicans have different priorities when it comes to the Federal budget. I get that, but when one person wants to slash Social Security for American retirees, to cut Medicare for senior citizens, to gut health benefits for low-income families, to drive up the cost of paying for college, and to gut programs that help families in crisis and low-income children, all in the name of making life even easier for giant corporations and billionaires—well, I think it is clear that his priorities do not include the safety and security of millions of Americans. That is a priority that should be at the top of all of our

lists in the Senate, Republican and Democratic.

I will stand with the Americans whom Congressman MULVANEY will cast aside as Budget Director, and I will vote no on his nomination.

MICK MULVANEY wants to slash benefits under Medicare, Medicaid, Social Security, and countless other programs. These are just numbers to him, but behind those numbers are real people. Real lives are at risk with every decision he will make as the Budget Director. So what I want to do is take the time I have remaining and share the stories of just a few of the people who would be affected.

Lea from Plymouth wrote to me, worried that Congressman MULVANEY would cut Social Security for her and for others in Massachusetts. Lea had an interesting suggestion. Here is what she wrote:

I have just sent off an email message to Representative Mulvaney regarding his spearheading of the cutting of Social Security benefits.

I challenged him and many of his colleagues to do this: Live on an income like mine—of \$1,219.80—for one month.

Having received my first increase of \$2.50 in several years, it was offset by a Medicare cost increase of \$11.50. Do the math.

I hope you and the other Democratic members of both houses fight like hell to raise our benefits.

We are definitely in for a bumpy ride for the next 4 years. As the saying goes . . . "it ain't going to be pretty!"

Thank you for listening.

Thank you, Lea. Thank you for writing.

I also heard from Janneke from Williamstown, who is worried about several nominees working to cut Social Security. Here is what Janneke had to say:

It is terrifying to consider either of these nominees, Price or Mulvaney, being confirmed for the position to which they have been nominated. They will work to undo, not to strengthen, social security. This is a profoundly disturbing possibility.

I urge you to do everything you can to oppose their confirmation!

Thank you, Janneke. I will. I will keep fighting for your hard-earned benefits.

Janet from Florence also reached out to me. She shared the inspiring stories of her and her husband, and then she told me how worried she is that cuts to Social Security and Medicare could be coming under Congressman MULVANEY's watch. Here is what she wrote:

I am 60 years old and have always been employed—in higher education jobs where I worked hard and long for modest wages, frequently the case in women-dominated professions.

My husband is a childcare worker who works with infants and toddlers. The work we do is meaningful and makes a societal contribution.

At 60 and 64, we have always lived like graduate students. We shop at the Goodwill, cook from scratch, bring our lunch, and drive old cars—and bike and walk. We will each be working until age 70, or longer, if our health permits. This is fine. We are for-

tunate to live as we do. But with market-based retirement funds and with family members needing our support, we need Social Security, which is NOT BROKEN, to remain, and be strengthened. And we need access to health care, for ourselves, children, and grandchildren.

This is a plea from the fading middle class to oppose the Price and Mulvaney nominations. We—and people far less fortunate than we are—need your stout support.

Thank you, Janet. Thank you and your husband for all you do for your community. I promise I will do my best to protect your benefits.

I have received hundreds of these types of letters—letters from constituents who are scared that cuts to Medicaid and Medicare could endanger their basic ability to survive, letters from constituents who have seen how important these services are to thousands across the State and millions across the country, constituents who aren't sure where to turn and whom to blame. They just know they cannot afford to lose these benefits, like a woman from Somerville, who wrote to me about the work she does as an intensive care coordinator. Here is what she had to say:

I am an Intensive Care Coordinator through Riverside Community Care, a statewide human service agency that delivers crucial mental health services to at-risk youth. In my program, the Guidance Center Community Service Agency, we specifically provide Child Behavioral Health Initiatives (CBHI) services to youth in Cambridge, Somerville, Medford, Malden, Waltham, Woburn, Wilmington, and other northern towns.

I am extremely nervous that the new presidential administration will attack Medicaid and put our programs in jeopardy.

If you're not familiar with the CBHI wrap-around model, I can briefly explain why these services are so important. One: we serve youth in poverty. Two: our services are community based, so we go to the homes of the families we're serving, so they don't need to rely on transportation. Three: we are a form of outpatient care that prevents youth who are suicidal/homicidal from needing hospitalization. Or, if they are hospitalized, helping the family develop a plan for when they're discharged. Four: Although the child with mental health diagnosis is our identified client, the services benefit the whole family. We understand that taking care of children with special needs is taxing, so we identify resources and services for parents as well. Five: we work with state departments like Department of Children and Families, Department of Health, and Department of Developmental Disabilities. Six: our model works. I myself rarely close a case without having had at least one goal (identified by the family) met and there are growing statistics about the benefit of having us in place.

I hope you can bring this argument where it needs to go to ensure that we have a future here in Massachusetts.

I want to say on this one: Thank you. Thank you for writing, and thank you for the work you do.

I am doing my best to bring this story. This is a story everybody in the Senate should listen to. It is a story about how we reach out to those who most need us and provide the kind of care they need.

Thank you. Thank you for your work, and thank you for writing.

I also received a letter from an occupational therapist from Massachusetts. She told me all about the important work she has been doing and how Medicaid has been crucial to that work. Here is what she had to say:

As a constituent and occupational therapy practitioner, I am writing to you to express my concerns about a major restructuring of the Medicaid program.

Medicaid is an essential safety net program for the most vulnerable in our society. In 2015, 39% of children received health insurance either through the Childrens Health Insurance Program or through Medicaid. More than 60 percent of nursing home residents are supported primarily through Medicaid. Additionally, Medicaid provides health care services and long-term services and supports to more than 10 million people living with disabilities, and 1 in 5 Medicaid recipients receive behavioral health services.

Restructuring of the Medicaid program through per capita caps or block granting and significant cuts to the Medicaid program would jeopardize the long-term health and independence of current Medicaid beneficiaries. Thus I urge extreme care and caution when considering a major restructuring of the program or other significant changes, waiver of mandatory services, or dramatic cuts.

Thank you for all the work you do, and thank you for writing and making this important point about who uses Medicaid and how critical it is to the basic support services that we provide.

Another constituent wrote to me about the amazing work that she does in the Boston area for those with severe mental illness and how Medicaid and Medicare help these people. Here is what she had to say:

I work with people with severe Mental Illness in the greater Boston area. A majority of my patients receive their therapy and medication through Medicaid and Medicare. Even the thought of losing coverage heightens their anxiety. If coverage is reduced or co-pays raised, they stand to lose not only therapy and group interventions but also the medication which is essential to avoiding higher levels of care. Given the high rate of co-occurring physical and mental health issues, the general health of my patients will be severely compromised with any reduction in access to care.

Nearly 1 out of 3 people covered by Medicaid expansion live with a mental health or substance use condition and people with marketplace insurance plans have fair and equal mental health coverage. With this coverage, people have access to mental health services that support recovery.

As a constituent, I would like you to keep in mind that Medicaid or insurance marketplace plans are helping all of those who struggle with mental illness who, with accessible supports, can lead healthier lives.

Again, thank you for the work you do, and thank you for writing. It is a powerfully important point.

Congressman MULVANEY wants to slash these programs. That is why I will be voting against his nomination.

I also received more personal stories from people like Michael from Acton, who told me about his son. Here is what he wrote:

My particular concern is the attack on the ACA and Medicaid and Medicare.

My biggest worry is my 27 year old son, Adam, who was born with microcephaly. He

is a very loving person with a great smile, but functions roughly at the level of a 12 month old. He currently lives in a group residence and goes to a day habilitation program during the week. Both of these programs are funded in part by Medicaid. If Medicaid funds are cut, I worry that the day-hab program will not be able to continue or, at the least, will operate at a much reduced level. This would seriously degrade the quality of Adam's life. I worry what will happen at his already understaffed residence.

As it is, the staff at Adam's residence and day-habilitation programs are paid very little wages to do very tough jobs. Because of this, there is already a constant problem of finding enough people to staff these. . . . jobs if they are paid less or have to do even more work because of lower staffing levels[.]

The prospect of what is coming scares me. What will my son's life be like?

Thank you for writing, Michael. I appreciate it. I will be out there fighting for Adam. I hope we can get a lot of people in the Senate to do that as well. Thank you.

We also heard from Daniel Mumbauer, who is president of the High Point Treatment Center in Massachusetts. Daniel has experienced firsthand how Medicaid funds can change the lives of thousands of people in Massachusetts alone. This is what Daniel wrote:

On behalf of High Point Treatment Center, I am writing to urge and request your support in protecting the Affordable Care Act and preserving Medicaid expansion in the 115th Congress.

High Point served over 30,000 individuals last year. We provide substance use disorder and mental health services to adolescents and adults.

Recent health insurance data show that Americans with mental health and substance use disorders are the single largest beneficiaries of the Affordable Care Act's Medicaid expansion. Nearly one in three who receives health insurance coverage through Medicaid expansion either has a mental illness, a substance abuse disorder, or both. By repealing the Medicaid expansion, this population of vulnerable Americans would be left without access to lifesaving treatment, driving up costs in emergency department visits and hospital stays.

I am also writing to urge your support for the protection of the Medicaid program from proposals to restructure Medicaid as a block grant or capped program. These proposals would reduce federal investment in Medicaid and leave millions of Americans without access to needed mental health and addiction treatment in our communities. Please work with your colleagues to protect our nation's most vulnerable patient population and preserve their access to treatment.

Thank you, Daniel. Thank you very much for writing, and thank you for the work you do.

Congressman MULVANEY wants to eviscerate health programs that would help Michael's son and the thousands who are treated at the High Point Treatment Center. That is exactly the opposite of what we should be doing.

I have also heard from many constituents worried about losing their Social Security benefits under the new administration, like Kensington from Hatfield, who is terrified that his mother, who depends on Social Security, will lose her benefits. Here is what he wrote:

Last night scared me for the first time. My mother is 69 and depends on Social Security for her income and has severe COPD and relies on medicare and medicaid for prescriptions and medical supplies to help her breath[e]. She was crying and is afraid of losing everything and that she will die. I know it's extreme thinking, but without her medicine and income it is unfortunately the truth. I didn't know what to say to comfort her and that scared me! What can I say to ease her mind and let her know that she will be OK. Will she be OK?

Thank you, Kensington, for your note. Your mother is right to be worried, and that is why I am fighting this nomination.

I have so many more stories—many, many stories—that I could read, but I am running out of time here.

I want to say that MICK MULVANEY is dangerous to the American people, and he is dangerous to the Federal Government. He will slash programs right and left without worrying about the living, breathing people whom he is hurting in the process. That is why I will be voting against his nomination as Director of the Office of Management and Budget and why I urge my colleagues to do the same.

Let's make sure that MICK MULVANEY never ends up as the head of the Office of Management and Budget, never is in a position to put together a budget to cut Medicare and cut Medicaid. Let's make sure that we keep our government, our Medicare, our Medicaid, and our Affordable Care Act working for the American people. That is what I will keep fighting for.

Mr. President, I yield.

The PRESIDING OFFICER (Mr. TOOMEY). The Senator from Missouri.

Mr. BLUNT. Mr. President, every day we continue to set new records for how long it takes for the new President to get his Cabinet in power—in office—and the responsibility to carry out the things that the President said that he wanted to do when he was elected.

In the great history of confirming people, from the Garfield administration in the 1880s until Franklin Roosevelt in 1932, the entire Cabinet in that whole period of time was confirmed on the first day. Now we are in the longest period in the history of the country since George Washington was President to try to get a Cabinet in place, not to mention all of the other jobs that go along with confirming the Cabinet. It is a good thing and no wonder that a few years ago the Senate looked at the numbers of people we had taken responsibility to confirm and said: Now, which of those do we really have to confirm and which of those would we only confirm if someone in the Senate believes we have to have a hearing on that level of person and that agency at that time?

We tried to streamline a process that we all know needs to be streamlined, but with only a couple of exceptions, every nominee so far has been the most dangerous nominee of all time for whatever job it is. There must be fill-in-the-blank speeches back there some-

where that go from one to the next: This would be the worst person who could ever possibly hold this job.

In the case of Congressman MULVANEY, it appears to be because he wants to try to do things that allow our entitlement programs to survive; he wants to do things that allow the deficit at some point to be eliminated. And no matter what point that is, that point would be too early for some of our friends on the other side.

Interestingly, as we talk about the Affordable Care Act, which has turned out to be very unaffordable for almost any family on the individual market and many families who had insurance that worked for them before—the Affordable Care Act cut Medicare in the plan by \$500 billion over 10 years. We hear speaker after speaker on the other side say: We would never do anything to cut Medicare. I argued vigorously against those cuts when they occurred.

As we move forward, I think we ought to be very thoughtful that we restore the cuts in areas where clearly it is not working the way people thought the Affordable Care Act would work. The person in charge of the numbers, the person in charge of the balance sheet, the person who calculates the costs should be someone with the capacity to do that. The President has decided, and the Senate, when finally allowed to vote, will determine that person is Mr. MULVANEY.

NOMINATION OF SCOTT PRUITT

Mr. President, the other thing we hope to do this week is to get to the EPA Administrator. I have a hard time imagining that anybody had more future damage lined up for the economy than the past Administrator of the EPA. Rules like the clean power rule—all these rules almost always have a good name. Clean power, who wouldn't be for that? I am certainly for clean power, but the clean power rule, in virtually every State in the country, would have increased utility rates from the middle of the State of Pennsylvania to the western edge of at least Wyoming, if not beyond that.

Fifty percent of the power produced by coal-powered utility plants, most of which are cleaner than any utility plants that use coal have ever been or are anywhere in the world today, many of which are almost new, many of which aren't paid for—and, of course, who pays for that utility plant, whether you use it or not? It is the family who pays the utility bill. There is no mythical somebody else who will pay this bill. So if you shut down a plant sooner than you should, somebody has to pay for that.

You could write those same rules if your goal were to eliminate coal. That is a different debate. It is a debate we could have at another time. If your goal were to eliminate coal, you could write those same rules. If the rule simply said: When the utility plants you are using right now, which meet all the current standards, which are, in many cases, the cleanest coal-fired plants

that have ever been built or are being used anywhere in the world today—when that plant is paid for, here is what you have to do next. Then, when you get your utility bill, you are not paying for the plant you are not using and also paying for the plant you are using. This would be as if there were a new standard—this is the EPA view of this—on automobile mileage, and that standard came out and said: Here is what automobiles have to look like, in terms of standards, on miles per gallon, and, by the way, you have to have that car or that truck right now. If you have a truck or car that you are already driving that doesn't meet that standard, you can't drive it any longer. Of course, you still have to pay for it, but you can't drive it any longer. We have been doing mileage standards in this country that have made a significant difference for a long time, but we have never said: You have to stop driving the car you are driving, and you have to buy a new car. And, of course, you have to pay for the car you are driving or the bank is unlikely to give you the loan for a new car. But that is what the EPA said in the clean power rule.

There is a commonsense way to do things, and the next nominee we will be dealing with, Attorney General Pruitt, is a commonsense guy. He has had great responsibility as attorney general, but he has been willing to challenge these rules that didn't make sense.

On the clean power rule, by the way, Missouri is the fourth biggest user of coal-produced energy. Projections were that the average Missouri utility bill under that rule, if it had been allowed to go into effect—still in the courts because the courts say that EPA really doesn't have the authority to do that; at least the lower courts have all said that. If that had been allowed to go into effect, the average Missouri utility bill would have doubled in 10 or 12 years. It is not hard for a family to figure out. Get your utility bill out, look at it, multiply it by two, and see what happens to the things you were doing before you had to pay, in effect, a second utility bill.

It is time that these agencies had some common sense, whether they are agencies that are being evaluated by the Office of Management and Budget or agencies that are being tasked by the Congress and the President to do certain things. It is time they thought about families. It is time they thought about jobs.

If the economy of the country is better next year, the country will be stronger 25 years from now. I think we spend a lot of time thinking about what America should look like 25 years from now instead of what we can do so that families have better jobs next month and next year. It is time we got some common sense into trying to reach the goals we want to reach, rather than coming up with goals and then reaching them in a way that clearly will not work.

The waters of the United States—that is not a bad title. Water is important. Waters of the United States is important. The EPA talked about the waters of the United States and decided to take a definition that the Federal Government has used for well over 150 years. By the way, the EPA was given control of navigable waters in the Clean Water Act and decided that navigable waters aren't just what for 150 years the Federal Government said they were—from 1846 until just a couple of years ago, more than 150 years—which was something you could move a product on, which meant interstate commerce, which meant the Constitution gave that responsibility to the Federal government, but they said: That is actually any water that could run into any water that eventually could run into navigable waters. That is what the Clean Water Act said when it said the EPA could regulate navigable waters.

This is a Farm Bureau map that has been available for a long time but that the EPA never did challenge during this debate. Only the red part of our State would be covered by the EPA for anything involving water—things like a building permit or things like whether you can mow the right of way on the highway or things like whether farmers could use fertilizer in their field, even if it were 100 miles away from any navigable water. All of those things under the rule could have been under the authority of the EPA. Let me mention again, only the part of the map that is red would have been covered by the EPA, the part is that 99.7 percent of the map.

We have a lot of caves in our State and a few sinkholes. I think those white dots, the three-tenths of one percent, are some combination of caves and sinkholes where the water appears to run right back into the middle of the earth, instead of into any water. What a ridiculous rule. It is the kind of rule that the Office of Management and Budget should challenge whenever they are asked to look at the cost-benefit analysis. It is the kind of rule that a reasonable Administrator at the EPA would never let be issued. In fact, I would say it is the kind of rule that this Congress eventually, hopefully, will take this responsibility back and say: We have to vote on these rules. We have to take responsibility for things that cost families their extra income and cost people their jobs.

As we get along with the business of confirming MICK MULVANEY to the Office of Management and Budget—and then after that and before we leave this week—Attorney General Scott Pruitt to be the Administrator of the EPA, hopefully both of them will use common sense as their guideline. Both of them will look at, What does this really mean to hard-working families? What does this mean to struggling families? What does this mean to single-mom families? What does this mean to young families who are trying to figure

out how they can save for the future of their kids' college or even summer camp? A lot of things go away if you double the utility bill. A lot of things go away if it takes a year to get a building permit. A lot of things go away if we don't have common sense in our government.

I think this nominee, MICK MULVANEY, and the next nominee, Scott Pruitt, both bring that common sense to the jobs they have been asked to do and have agreed to do, if confirmed by the Senate.

I see my friend from Massachusetts is here.

I yield the floor.

The PRESIDING OFFICER (Mr. GARDNER). The Senator from Massachusetts.

Mr. MARKEY. Mr. President, I thank my friend from Missouri, and the Senate, for giving me this opportunity to speak. I rise to speak in opposition to the nomination of Representative MICK MULVANEY to be Director of the Office of Management and Budget.

Congressman MULVANEY represents the latest of President Trump's broken promises to the American people. In this case, it is President Trump's campaign promise to protect Social Security, and Congressman MULVANEY is the man who will lead the charge. The Office of Management and Budget, OMB, as it is called, is like that group of scientists in the movie "Apollo 13" who have to figure out how to bring the spacecraft home with only a few items found in a couple of boxes. In the movie, they describe it as fitting a square peg in a round hole. In government, we call it the Federal budget.

The crucial role of OMB and the development of the Federal budget means that the Director often has the final word on the priorities of our Federal agencies. The Director must be someone who will approach the enormity of the Federal Government in a thoughtful and deliberative manner. They must be able to consider how the budget will impact the everyday lives of all Americans.

Representative MULVANEY's support for reckless, across-the-board cuts demonstrates that he is not up to this challenge.

Donald Trump campaigned on the promise that he would make no cuts to the Social Security safety net. That means no cuts to Social Security, Medicare, and Medicaid. Congressman MULVANEY's nomination shows that, despite what candidate Trump may have said, President Trump intends to do just the opposite. This is not what millions of people voted for. MICK MULVANEY's nomination has Americans across the country fearful for their futures, and they have every right to be scared.

Congressman MULVANEY represents an immediate threat to Social Security. He represents a threat to the 1.2 million seniors in Massachusetts who currently rely on Social Security. He represents a threat to the millions more who expect the program to be

there when they retire in coming years.

MICK MULVANEY has attempted to declare Social Security unconstitutional and has referred to the program as a Ponzi scheme. Well, Social Security is not a Ponzi scheme. Social Security is not a handout. Social Security is a promise we make to America's seniors after decades of hard work. It is the commitment we made to those who built this Nation, fought in wars, and provided for their families. Seniors pay into the system throughout their working lives, and they expect it to be there for them when they retire. We need to keep that promise.

Social Security is not just a line in the budget. It is a lifeline for millions of Americans.

In Massachusetts, the program keeps 295,000 people above the poverty line. Across the country, more than 15 million elderly Americans are able to live out their lives and not be driven into poverty because they have a Social Security check. That is what it does for 15 million Americans. Seniors will have nowhere to turn if President Trump and Representative MULVANEY have their way and Social Security ceases to exist. Congressman MULVANEY has repeatedly suggested raising the Social Security retirement age to 70 years old. Let me repeat that. MICK MULVANEY wants grandma and grandpa to wait until they are 70 years old—that is 4 years older than the current retirement age—before they can call upon the benefits they deserve.

Not only does MICK MULVANEY want to make it so Americans have to work longer, he wants them to receive less when they finally do retire. At his Budget Committee hearing, MICK MULVANEY said that he himself was willing to be subject to these new rules, since they might require him to work a couple of extra months before retirement and require his children to work until they are 70.

Nothing could be more out of touch with working-class, blue-collar workers across our country. I have no doubt that MICK MULVANEY would be able to work a few extra years in his current role as a Congressman or Director of OMB or a great job that he would get after those responsibilities, but what about millions of construction workers, carpenters, waitresses, gardeners, busdrivers, and others with physically demanding jobs? My father, a milkman—how many years can you work being a milkman? You have to go until you are 70 to receive a Social Security benefit in this country in the future? That is the challenge we have. We ask milkmen, we ask 69-year-old construction workers to lay cement in blistering summer heat because Social Security is no longer there when it is promised. Do we expect a 68-year-old window washer to climb the scaffolding every day when they cannot afford to retire without their Social Security benefits? We should not balance the budget on their backs. That is just plain wrong.

Raising the Social Security retirement age is just one of many of President Trump's broken promises. He also wants to cut Medicare and the health care of millions of Americans. Congressman MULVANEY looks ready to do the President's bidding as well.

Congressman MULVANEY has said we need to end Medicare as we know it and supported House Speaker PAUL RYAN's destructive ideas to turn Medicare into a voucher program. Congressman MULVANEY went even further saying that those efforts did not go far enough. Those kinds of cuts to Medicare would be nothing short of a disaster for the 55 million Americans enrolled in the program, including the more than 1 million individuals in Massachusetts who rely on Medicare for their health care needs.

Seniors deserve an OMB Director who will protect their health care, not put it on the chopping block. We know Congressman MULVANEY is deeply committed to these misguided ideas because we have seen how far he is willing to go to support them. He was one of the few key cheerleaders of the Republican government shutdown in 2013. He was willing to put millions of American families, businesses, and services at risk in order to defund the Affordable Care Act.

That shutdown cost the United States more than \$24 billion. At that time, Congressman MULVANEY said it was good policy. He said it was all worth it in order to prove a point. That simply is irresponsible. That kind of recklessness has no place in the Office of Management and Budget. Congressman MULVANEY also does not believe in raising the debt limit.

Back in 2011, he put the economy at risk when Republicans held our debt limit hostage. He put the full faith and credit of the United States in danger by his willingness to allow the Treasury to default. That would have wreaked havoc on the financial markets and could have destabilized our entire economy, but Congressman MULVANEY dismissed these concerns and called the potential breach of the debt limit a fabricated crisis. Nothing could be more fiscally irresponsible and further from the truth.

Congressman MULVANEY is not the type of leadership Americans expect in their government, and he is not the type of leadership needed to direct the Office of Management and Budget. Strong leadership is especially crucial at the Office of Management and Budget, where responsible oversight of the regulatory process is a requirement of the Director's job. The individual in charge must be willing to make fair determinations based on facts and evidence.

Congressman MULVANEY's record gives me no confidence that he will meet this standard. Congressman MULVANEY also dismisses accepted science and rejects established facts. He has stated global warming is based on questionable science and has out-

right dismissed the threat that climate change imposes on the planet. OMB oversees agencies' use of the social cost of carbon, the Federal metric that assigns a dollar value for future damages to each ton of carbon dioxide emitted into the atmosphere. We need an OMB Director who accepts the consequences of climate change because it will be the most vulnerable in our society who will pay the highest price if we ignore climate science and the danger it poses, not only to our own country but to the rest of the planet.

Our country faces serious challenges that require the careful and non-partisan allocation of resources. We need a Director of the Office of Management and Budget who will hear the concerns of all Americans, not promote dangerous fiscal ideologies. Congressman MULVANEY has indicated that he will approach our budget with an ax, and it will be our seniors who will be first on the chopping block. I do not believe he is qualified to lead the Office of Management and Budget.

I do so remembering 1981 and 1982. Ronald Reagan arrived, and Ronald Reagan had a very simple plan for America. He was going to do three things fundamentally; No. 1, massive tax cuts for the wealthiest and biggest corporations in America; No. 2, simultaneously increasing defense spending massively; No. 3, to simultaneously pledge that he was going to balance the budget while unleashing massive economic growth in our country.

What he did then was to put together a team that had a remarkable ability to harness voluminous amounts of information to defend that knowingly erroneous premise. You cannot say you are heading toward balancing the budget if you are simultaneously saying: I am going to give massive tax breaks to those who need them the least and massive defense increases, which are going to further lead to Federal expenditures, because then you have to turn and you have to cut programs. You have to cut Medicare. You have to cut Social Security. You have to cut the EPA. You have to cut Head Start. You have to cut food stamps. You have to cut programs for the poorest. You have to cut all of those investments in science in the future. You have to cut and cut and cut.

That really was not the goal because ultimately Ronald Reagan just retreated from the cuts because the pressure came from across America, but he had accomplished his principal goal, which was the massive defense increases and the tax cuts for the wealthy because that was the real agenda all along.

So there is a great book, "The Triumph of Politics: Why the Reagan Revolution Failed," by David Stockman. He was the head of OMB for Ronald Reagan back in the early 1980s. He wrote a book in 1986 about his experiences with this failed economic philosophy. It is a blistering, scalding indictment of what they tried to do in 1981



and 1982. He wrote this as a warning to the future, about why we should not try to repeat what Reagan tried to do in 1981 and 1982.

What he talks about in the book is this. The same kind of made-up numbers to put a Panglossian—rose-colored glasses—the most optimistic projection on what would happen to our economy if we had these massive tax cuts and increases in defense spending, while pretending that we were going to do all of these other things, which actually never did occur.

So he said, because the numbers did not add up, they had to engage in a lot of fiscal chicanery. What he did was he constructed two little separate categories. No. 1, he called it the magic asterisk. The magic asterisk was this attempt to avoid ever specifically having to itemize all of the budget cuts that would cause a revolution in America because they knew they could not put that list out.

So they called it a magic asterisk—cuts to be named later, programs to be cut later. We all know the names of those programs—Medicare, Medicaid, education, Environmental Protection Agency, Head Start, all the way down the line—but we will just hide the ball on that.

Secondly, he constructed another idea, he said, which was also fraudulent, which was called “rosy scenario.” What they would do is, they would put together a group of economists who would then, using completely bogus projections for the future, project massive economic growth. That is what Donald Trump talks about now: Oh, we will see growth that you have never seen before in the history of mankind—rosy scenario.

There is no economic data to back it up, but that is just how much Trump is trying to model himself after this attempt in 1981 and 1982 to sell the exact same bill of goods, which collapsed, by the way. They collapsed like a house of cards economically because it did not add up. You cannot have a magic asterisk for all of these cuts that are never going to happen because ultimately the Democrats are going to back down the Republicans.

We are going to back them down on cutting Medicare. We are going to back them down on cutting education. We are going to back them down on cutting the budget for all of these great programs. We are going to have this battle. They already know it, but it is not going to stop them in terms of the first two programs, the tax cuts and the defense increases. They are going to still try to ram them through. That just creates bigger and bigger and bigger deficits.

The only way they can get away with it is if they can project massive economic growth in our country, which is the “rosy scenario.” Then you have a bunch of economists who are kind of supply-siders who kind of look back at the 1980s and ask: Can't we go back to the Reagan era again and repeat that?

You don't want to repeat it. The guy who put the program together said: Please don't do that again. Please don't do that again. He said here: Ronald Reagan chose not to be a leader but a politician, and in doing so, showed why passion and imperfection, not reason and doctrine, rule the world. “His obstinacy,” said David Stockman, “was destined to keep America's economy hostage to the errors of his advisers for a long, long time.”

Mark Twain used to say that “history doesn't repeat itself, but it does tend to rhyme.” So, yes, this isn't exactly like Ronald Reagan in 1981 and 1982, but it rhymes with 1981 and 1982. It rhymes with it. They are trying to argue economics like lawyers, right? Politicians, PR people. Sell the bill of goods. Donald Trump calls it “truthful hyperbole,” like when he is selling a piece of property. Well, the United States is not a piece of property. The American economy is not a piece of property. It is the central organizing principle for all of the hopes and all of the dreams of every person who lives in our country.

You cannot allow for knowingly false premises to be advanced, and that is what Congressman MULVANEY will represent in this entire process if he is confirmed as the new head of the Office of Management and Budget. He represents someone who is going to reach back into time to this era which has already been shown to have completely failed and repeat the exact same experiment again. The American people just can't run the risk because ultimately the economic catastrophe—the impact on ordinary families—would be so great that ultimately we would look back and say that this Senate failed, that we did not discharge our responsibilities to those families.

So from my perspective, I stand out here knowing that once again we are faced with this prospect of repeating David Stockman's book “The Triumph of Politics: Why the Reagan Revolution Failed” and knowing that when Donald Trump said: Oh, don't worry, I am going to take care of you, ordinary Americans; you are going to get the biggest tax breaks—they are not. That is not his plan.

Oh, don't worry. I am going to give you better healthcare. I am going to give you more coverage for your families.

That is not going to happen. That is not his plan.

I am going to give you cleaner air and cleaner water. It is going to be the best. It is going to be the greatest.

That is not going to happen.

It is the triumph of politics. It is the triumph of the special interests, of the oil and gas industry, of the defense establishment that wants bigger and more contracts, of the wealthiest who want big tax breaks. It is the triumph of politics—the politics of the most powerful, of the wealthiest, of the most entrenched. That is what this Trump administration is already about, and

they are going to continue to say: Don't worry. Your healthcare will be better. Your air will be cleaner. Your children will be safer. Social Security will be protected.

But then who gets named to run the Office of Management and Budget? Somebody who wants to raise the retirement age to 70; someone who wants to fundamentally change Medicare as we know it; somebody who has an agenda that looks a lot like 1981 and 1982 in the Reagan years, very much like it.

So is there anything new here? No. Is this just a sales job, a con job? Yes. Because when you pull back the covers and you look at what is about to unfold, it is something that is going to be very destructive of our economy. It is going to further income inequality across our country. It is going to reduce opportunity for every child in our country. Rather than democratizing access to opportunity through healthcare and education, they are going to work systematically to undermine those opportunities, to reduce the chances that they can maximize their God-given abilities.

That is why this nomination is so important, because the OMB controls the Federal budget. That is all the hopes and all the dreams. That is where the money goes. Who gets it? What are the incentives?

Right now, once again, Donald Trump is embracing Ronald Reagan's trickle-down economics: the more money you give to the people who are already rich, the more it will trickle down to ordinary folks.

We don't hear him saying: Oh, don't worry, the overwhelming majority of these tax breaks are going to go to the blue-collar people in our country. You are not going to hear him say that. And when you look at all the proposals they have made, it always goes to the corporations, it always goes to the upper 1 or 2 percentile.

Those promises he made are just the same as David Stockman's and Ronald Reagan's back in 1981 and 1982—identical almost down to the final detail—and are just as guaranteed to fail.

We have Congressman MULVANEY who has been nominated. And give him credit—he is actually honest about what he believes. He is actually very clear in his explanation of what the goals are going to be for our country if he is confirmed and can partner with Donald Trump to implement this agenda. We give him credit for his honesty, but it is only honesty in saying that he is going to defend a set of economic assumptions that are completely and totally fallacious and have already been disproved in the marketplace—the political marketplace.

So all I can say here is that it would be reckless of the Senate to deliver over to the American people once again someone whose intent is to try to take this formula which gathers voluminous amounts of information to defend knowingly erroneous premises.



You cannot have massive tax cuts and massive increases in defense spending and balance the budget without killing all of these programs that almost every American family relies on, beginning with Social Security and Medicare and Medicaid, education programs, all the way down. We can't do it.

So that is why we are fighting out here. We are fighting to make sure we don't repeat the same history we have already lived through.

By the time Reagan reached near the end of his career, guess what he did. He changed and began to acclimate himself to reality. He began to accept, through a group of new advisers, the actual impact his initial policies were having. And that is all we are trying to do right now. We are trying to start out where we are going to be forced to wind up anyway. Why not do that since we have already learned the lesson? Why not have those lessons of the past be implemented? But no. They are committed to a repetition syndrome, a reenactment of what has already occurred, rather than a reconciliation with history, learning from it and then trying to move forward in a way which is wise, protective of every American.

I stand here to oppose Congressman MULVANEY's nomination for the Office of Management and Budget. I do not believe it would be a good thing for our country, for our economy. This is just too dangerous a roll of the dice with our entire Nation. So I say to the Senate, please vote to reject this nomination, and ask the President to nominate someone who does reflect the best economic values that our country has.

With that, I yield to the Senator from Washington State, Mrs. MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

ANDREW PUZDER

Mrs. MURRAY. Mr. President, before I begin to speak about the nomination before us right now, I did want to comment on the breaking news regarding the nomination of Andrew Puzder.

There is some good news today for workers and women and families in America. Back on the campaign trail, President Trump promised to put workers first, but from the start, it has been pretty clear that his nominee for Secretary of Labor, who has now withdrawn, was a clear signal that President Trump had no intention of keeping that promise, and instead he planned to rig his Cabinet with the staunchest allies for Wall Street—big corporations and special interests—that he could find.

So I am not surprised that when workers and families heard about the pride Mr. Puzder takes in objectifying women, that he called his own workers "the best of the worst," and that his vision for our economy is one in which workers are squeezed so those at the top can boost their profits higher and higher, they said no. They spoke up loud and clear that they want a true champion for all workers in the Labor Department.

I just want to thank all the workers who bravely shared their stories in the last few months. It is clear today that your words are powerful, and I am going to keep bringing your voices here to the Senate, and we will keep fighting.

With that, Mr. President, I wanted to be here today to speak about OMB Director Nominee MULVANEY. I submitted comments on this nomination in the Budget Committee, and I want to bring them to the full Senate today.

I am here today to urge my colleagues to oppose Congressman MULVANEY. Mr. President, we all know that a budget is more than just numbers on a page; a budget represents our values and our priorities, the kind of Nation we are now and the kind of Nation we want to be.

Congressman MULVANEY is not shy about where he stands on this. When I sat down with him a couple of weeks ago, he made it very clear that he would use our budget to radically reshape our country in a way that I believe would be devastating to families, to seniors, to veterans, to the middle class, and to many others.

Congressman MULVANEY has said he wants to make drastic, radical cuts to Federal investments, trillions of dollars across the board. His budget proposals would slash Federal funding for education, leaving students across the country with fewer opportunities to learn and to succeed. They would cut investments in jobs and training, leaving our workers scrambling to keep up with the changing economy. They would eliminate support for children and families who need a hand up to get back on their feet. They would eliminate basic medical research that creates jobs and leads to lifesaving cures. They would continue the work President Trump has done to destroy healthcare in America and create even more chaos and confusion. They would lead to dramatic cuts to Medicare and Medicaid, betraying the commitments we have made to our seniors and so much more. He wants to do that while giving away even more tax cuts to the wealthiest Americans and biggest corporations and has proposed raising the Social Security retirement age to 70, causing millions of Americans to drop under the poverty line. In other words, Congressman MULVANEY's nomination is another perfect example of how President Trump is breaking the promises he made on the campaign trail to stand with workers and seniors and the middle class.

Just a few years ago, Congressman MULVANEY was at the fringes of the Republican Party. He is one of the most extreme members of the tea party wing of the party who supported the government shutdown when others were working to end it; who failed to show the proper concern about a potentially catastrophic breach of the debt limit and remains cavalier even now, telling me he would advise the President against accepting a clean debt limit;

who, by the way, isn't even willing to support the budget deal I reached with Speaker RYAN. He is someone whom responsible members of his own Republican Party scorned just a few years ago and whose budget ideas they rejected as damaging, unworkable, and political suicide. But now he is the person whom Republicans are holding up as a budget leader.

As we see this nomination, as we see Republicans use the budget process to slam through a partisan plan to destroy our healthcare system, it is clearer than ever how far the Republican Party has moved, even from the days of our bipartisan budget deal.

Finally, I am extremely troubled by Congressman MULVANEY's failure to pay taxes and comply with the law. I know I am not the only one who has been here long enough to see Cabinet nominees withdraw over less egregious breaches than this. Congressman MULVANEY's motivations, explanations, and defenses have not been credible. It is hard to believe that every single one of my Republican colleagues feels comfortable with someone with such a serious lapse of judgment in charge of the budget of this administration.

I voted against Congressman MULVANEY in the Budget Committee for those reasons and more, and I am here today to oppose his nomination, and I urge my colleagues to do the same. Certainly, we can do better than this.

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

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I think Senator MURRAY has said it very well, and I want to pick up on what I think is really at stake with this nomination. In effect, if confirmed, Congressman MULVANEY would be the numbers guy for the Trump team, the architect for the President's fiscal plan for the Nation's future.

I want to start by way of saying that, when you look at the President's promises that he made on the campaign trail to protect Medicare and Social Security from draconian cuts, Congressman MULVANEY's nomination and his record would be one of the biggest bait-and-switch schemes inflicted on America's seniors that I can imagine.

I am going to start by taking a minute to read some of what the President said on the campaign trail. He said:

Every Republican wants to do a big number on Social Security. They want to do it on Medicare . . . and we can't do that. It's not fair to the people.

The President said: "It's my absolute intention to leave Social Security the way it is, not increase the age, but to leave it as-is."

The President said:

You can't get rid of Medicare. Medicare's a program that works . . . people love Medicare and it's unfair to them. I'm going to fix it and make it better, but I'm not going to cut it.

So those are just some of the promises that President Trump made with respect to Social Security and Medicare. There are quotes like that from rallies and campaign events and debates over a period of some months. I think it would be fair to say that, for a lot of seniors, when they heard that—when they heard these promises that these vital programs would be protected—that was a political litmus test for many American older people. So I describe this contrast between the promises of President Trump and Candidate Trump and Congressman MULVANEY as a bait and switch, but I think the Senate needs to know a little bit more detail with respect to specifics.

In 2011 Congressman MULVANEY said: “We have to end Medicare as we know it.” He added in another interview: “Medicare as it exists today is finished.” He proposed raising the Social Security age to 70. He called the program a Ponzi scheme. While he was a State lawmaker, he even voted to declare Social Security unconstitutional.

My sense is it will be a while before seniors get over the whiplash from the 180-degree turn the administration has pulled on Medicare and Social Security cuts.

Now, with respect to the days ahead, for me, a lot of this debate starts in my days when I was codirector of the Oregon Gray Panthers. The seniors that I worked with knew what those programs meant. It was their grandparents who faced old age without Social Security. Those seniors with whom I worked during those Gray Panther days remember what happened before we had the safety net. Before there was Social Security and Medicare, you would have needy older people shunted off to poor farms and almshouses. Even if you had meager savings, you were on your own for income or you had to rely on family, and lots of family members were not exactly well off. If you came down with a serious illness, it really meant that you would be living in poverty and squalor. Social Security and Medicare changed those unacceptable terms of the social contract between this country and older people—and changed it for all time. Those programs were about saying that in America—for the older people who fought our wars, strengthened our communities day in and day out, made America a better place because they were always pitching in to help and be constructive—Medicare and Social Security meant that older people and seniors would not face a life of destitution.

That is why I believe every Member of this body—and I heard Senator MURRAY talk about this—ought to find what Congressman MULVANEY has said against Medicare—his anti-Medicare and anti-Social Security agenda—so troubling. I want to be very specific about the days ahead. Medicare, at its core, has always been a promise. It has been a promise of guaranteed benefits. It is not a voucher. It is not a slip of

paper. It is a promise of guaranteed benefits. We made the judgment—I just went briefly through some of the history—because no one would ever know how healthy they would be when they reached age 65. We talked about it in the Budget Committee and in a number of meetings here in the Senate. I am definitely for updating the Medicare promise, updating the Medicare guarantee, and improving it, for example, to include chronic care services, cancer services, diabetes, services dealing with a whole host of chronic illnesses. That is going to consume much of the Medicare budget. We can have more home care and we can use telemedicine, and we can use nonphysician providers.

Senator MURRAY knows that in our part of the country we really have found a way to get people good quality care in an affordable way, but we are keeping the promise. We are keeping the promise of the Medicare guarantee.

Congressman MULVANEY would break the promise of Medicare. If confirmed, he would join his former House colleague who just became Health and Human Services Secretary, Tom Price, who said in really very blunt terms over the years that he wanted to privatize the program. He wanted to privatize and cut the program. He basically indicated with his legislation that he didn't really believe in Medicare, and he didn't believe in the guarantee of services that Medicare provided. If you look at Congressman MULVANEY's record, it certainly indicates he shares the views of our former House colleague who just became Health and Human Services Secretary, Tom Price.

With respect to Social Security, this year nearly 62 million Americans and their families count on receiving retirement, survivors, and disability benefits to stay afloat. This is a program that keeps tens of millions of seniors out of poverty. It is unquestionably one of the most popular programs in American history. It has changed the fabric of the country for the better.

Again, I think about the days when I worked with older people. We had millions of older people who month in and month out would just walk an economic tightrope. They would try to balance their food costs against their fuel costs and their fuel costs against their medical costs. Social Security and Medicare came along to make sure those older people wouldn't be pushed off that economic tightrope. So Social Security has changed the fabric of the country for the better without doubt, and yet Congressman MULVANEY proposes to raise the Social Security age to 70, which would be a 20 percent cut to benefits.

Let's picture what this means, particularly for the millions of older people who might not have had a job where they could work on their laptop, and they had a physical job. They worked hours and hours on their feet day in and day out. Ask the single

mom who spent decades working multiple jobs that way to put food on the table and send her kids to school what it is going to mean to cut their benefits that way—or the loggers or the dock workers, the miners, and all of those people who have worked hard and have been on their feet with physically grueling work. Ask them about raising the Social Security age this way. I think you are going to get a pretty good sense of how strongly Americans oppose this kind of Mulvaney approach.

So by way of summing up, I think it would be hard to find a more significant task for the Congress at this time than protecting Social Security and Medicare, advocating for the two as great achievements in the history of American policymaking. They are right at the center of our safety net.

Now you have to give Congressman MULVANEY credit for one thing. He has been blunt, he has been explicit, and he is not shy about essentially his vision of hollowing these programs out and dismantling them. When asked about whether he was going to stick to his proposal to cut the programs, he said:

I have to imagine that the President knew what he was getting when he asked me to fill this role. I would like to think it is why he hired me.

That is why I say—and Senator MURRAY touched on this—what kind of a bait-and-switch game are we talking about here? You have the President—Candidate Trump—saying: Nothing doing; nobody is going to mess with Social Security and Medicare—off limits. I want older people in America to know they are going to be safe if they elect me.

It was almost like a litmus test for America's older people. Then Congressman MULVANEY comes along and he basically calls the bluff on the whole thing. He describes the bait and switch in very blunt terms, where he says: “I have to imagine the President knew what he was getting when he asked me to fill this role”—that the President knew what the Mulvaney record was all about, which was about ending Medicare as we know it.

So I will just close by way of saying that I see that a big part of my job, and what Oregonians sent me here to do, is to defend Medicare and Social Security for generations of Americans to come. That is why I am a no on the Mulvaney nomination. I urge my colleagues to oppose the nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. MCCASKILL. 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. MCCASKILL. Mr. President, most Americans don't know who the Director of OMB is, but I want to stand today and explain what an important position in our government it truly is.

The Director of OMB is responsible for not only implementing and articulating the President's budget but also safeguarding the regulatory process. I would say there is another part of the job because when you are Director of OMB and you are putting the budget out, you also have to understand the checks and balances of our government, including that there are two Houses in Congress and there are different opinions in Congress. Sometimes, in order to get a budget, the word "compromise" has to be utilized, which, by the way, was one of the favorite concepts of our Founding Fathers in our Constitution. That is why they embraced checks and balances, because they wanted to foster compromises and consensus.

That is why Representative MULVANEY is not the right person for this job. He is someone who has been a disrupter. There is a place for disrupters in government. I am not casting aside all disrupters, but I don't think a disrupter belongs as the head of the OMB.

Some people are going to talk a lot about his career and quote him: "We have to end Medicare as we know it." Others will talk about how he has agreed with the characterization of Social Security as a Ponzi scheme; that he has advocated raising the Social Security eligibility age to 70, even for people who would be as old as 59 right now and maybe having worked in physical labor all of their lives. Yes, he has advocated dramatic changes in dismantling Medicare and Social Security in many ways. I would like to focus on the fact that he thinks it is OK to default on the debt, that he thinks a government shutdown was good policy in terms of making a point, and that he has supported indiscriminate cuts to our defense budget that were a blunt instrument based on an ideology and not a thoughtful position based on our national security.

I listened to Mr. MULVANEY as he said to me in a one-on-one meeting how he would prioritize the debts he would pay if he defaulted on the debt. Wouldn't that be a great addition to the chaos we are all feeling right now; that the U.S. Government would be Turkey or Greece or another country that is having trouble meeting its obligations.

We have been a beacon on the Hill not just for freedom and not just for liberty but a beacon on the Hill in terms of economic strength. The notion that we would not rise to our obligations—understanding, as Congressman MULVANEY does, that this is not a spending issue; this is a meeting-our-obligations issue. This is like buying a pickup truck and halfway through the payments you decide you don't want to pay anymore. This isn't a matter of deciding whether you are going to buy the pickup truck in the first place. That is the appropriations process. Raising the debt limit is merely deciding we are going to pay our obligations.

So the fact that he believes brinkmanship is a good thing in terms of shutting down the government, the fact that defaulting on our debt is an option for Congressman MULVANEY, the fact that if you look at those positions, you realize compromise is not part of his vocabulary; that brinkmanship and rigid ideology is what he would bring to this process, that is the last thing we need in Washington, DC, right now, brinkmanship and rigid ideology, especially when it comes to our budget and prioritizing our funds.

So I cannot support Congressman MULVANEY. As the ranking member on the Homeland Security and Governmental Affairs Committee, I hope I can urge my other colleagues to understand that there are many people whom I could support for Director of OMB, but Congressman MULVANEY is not one of them.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise in opposition to the nomination of Congressman MICK MULVANEY to serve as the Director of the Office of Management and Budget.

Under most circumstances, I always give the benefit of the doubt to the incoming President for obvious reasons; that he is the choice of the American people. So it is with great reluctance that I come to the floor of the Senate to rise in opposition to the nomination of Congressman MICK MULVANEY.

President Trump has committed to "end the Defense sequester and rebuild our military." Earlier this month, the President promised troops at CENTCOM headquarters that his administration "will make an historic financial investment in the armed forces of the United States." I fully support the President's commitment. I fear that Congressman MULVANEY, as the Director of the Office of Management and Budget, does not.

I believe we must rebuild our military while at the same time putting our Nation on a sustainable, long-term fiscal path. We can and must do both. Unfortunately, Congressman MULVANEY has spent his last 6 years in the House of Representatives pitting the national debt against our military. He offered amendments in support of cutting our national defense funding year after year after year.

As my colleagues and I sought repeatedly to find legislative solutions to reverse dangerous defense cuts and eliminate arbitrary defense spending caps, it was Congressman MULVANEY and his allies who repeatedly sought to torpedo these efforts.

In 2013, Congressman MULVANEY succeeded in passing an amendment to cut \$3.5 billion from the Defense appropriations bill. His website featured an article touting the achievement, but when I asked him about that vote during his confirmation hearing, Congressman MULVANEY said he didn't remember that amendment. I think anybody who treats our national defense with the se-

riousness it deserves would remember a vote like that.

President Trump has said that defense cuts over the last several years have depleted our military. Our military leaders have testified that these cuts have placed the "lives of" our military "servicemembers at greater risk." That is an exact quote from our military leaders, but Congressman MULVANEY has said that in the greater scheme of things, sequestration cuts were not that big. He also said: "The only thing worse than those military cuts would be no cuts at all."

This is the kind of statement that can only be made by a person detached from the reality of what these cuts have meant to military servicemembers. Tell that to the thousands of soldiers who were forced out of the Army because of these cuts. Tell that to the Marine pilots who fly fewer hours per month than their Russian and Chinese counterparts because of these cuts. Tell that to the Air Force maintainers, stealing parts from retired aircraft and museum pieces to keep their planes in the air because of sequestration. Tell that to the crew of the submarine USS Boise who can't deploy because their boat is no longer qualified to dive and can't receive required upkeep because of chronic maintenance backlogs. Tell that to the thousands of Navy sailors who have picked up the slack for an overworked Navy by going on extended deployments and spending more and more time away from their families, all because of the defense cuts.

Congressman MULVANEY's beliefs, as revealed by his poor record on defense spending, are fundamentally at odds with President Trump's commitment to rebuild our military. This record can't be ignored in light of the significant authority exercised by the Director of the OMB over the Federal budget.

Almost every one of my colleagues in this body—all but one—voted for Jim Mattis to be Secretary of Defense because they knew he was the right leader to help the Department of Defense confront growing threats to our national security. I share that same confidence, but I also know he can't do it alone. Voting in favor of Congressman MULVANEY's nomination would be asking Secretary Mattis to spend less time fighting our enemies overseas and more time fighting inside the beltway budget battles with an OMB Director with a deep ideological commitment to cutting the resources available to his Department.

Congressman MULVANEY's record is equally troubling when it comes to foreign policy. Apparently, Congressman MULVANEY shared President Obama's naive assumptions about Russia's threat to Eastern security when he voted to require the withdrawal of two Army brigade combat teams from Europe in 2012. He compounded the error in 2013 when he voted to withdraw the 2nd Cavalry Regiment from Europe. Congressman MULVANEY and others

supported these withdrawals in the name of saving money, but the short-sighted decision to withdraw troops and capabilities from Europe ended up costing the taxpayers billions more, not less.

When Russia invaded Ukraine in 2014, America's military presence in Europe was inadequate to the scale and scope of Russia's threat to our interests and our allies. Addressing this problem has required billions of dollars in new investments to enhance our deterrent posture in Europe; in other words, American taxpayers, quite literally, paid the price for the strategic mistake of withdrawing from Europe, supported by Congressman MULVANEY.

In 2011, Congressman MULVANEY voted for the immediate withdrawal of all U.S. troops from Afghanistan. I repeat that. This is not a typographical error. In 2011, Congressman MULVANEY voted for the immediate withdrawal of all U.S. troops from Afghanistan. Congressman MULVANEY voting to abandon America's mission to prevent Afghanistan from becoming a safe haven for terrorists to attack our homeland as they did on September 11, is disturbing enough, but Congressman MULVANEY's testimony during his confirmation hearing that he did so at the urging of a single constituent, with no apparent regard for the national security consequences, leaves me with serious doubts about his judgment on matters of national security.

Beyond matters of defense and national security policy, I am also concerned about Congressman MULVANEY's support for reckless budget strategies that led to a government shutdown. He made frequent attempts to diminish the impact of the shutdown by referring to it as a "government slowdown," or the more Orwellian term, "temporary lapse in appropriations." There are few people whose views and record are more representative of the dysfunction that has gripped Washington for the last several years than that attitude.

Over my 30 years in the Senate, I have shown great deference to Presidents of both parties in selecting members of their Cabinet, but I cannot on this nominee. My decision to oppose this nomination is not about one person. It is not about one Cabinet position. This is not personal. This is not political. This is about principle. This is about my conviction as chairman of the Senate Armed Services Committee that providing for the common defense is our highest constitutional duty and that rebuilding our military must be the No. 1 priority of the Congress and the White House.

I will vote to oppose Congressman MULVANEY's nomination because it would be irresponsible to place the future of the defense budget in the hands of a person with such a record and judgment on national security.

This is the beginning, not the end, of the fight to rebuild our military. I will continue to stand on principle as this

body considers a budget resolution for the coming fiscal year and Defense authorization bill and a Defense appropriations bill, and I will continue to stand on principle in fighting to bring a full repeal of the Budget Control Act's discretionary spending caps to the floor of the Senate.

For 6 years now, Washington dysfunction has imposed very real consequences on the thousands of Americans serving in uniform and sacrificing on our behalf all around the Nation and the world.

From Afghanistan to Iraq and Syria, to the heart of Europe, to the seas of Asia, our troops are doing everything we ask of them. It is time for those of us in this body to do all we can for them. So long as I serve as chairman of the Armed Services Committee, it is my pledge to do just that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

#### NOMINATION OF NEIL GORSUCH

Mr. HATCH. Mr. President, 2 weeks ago, President Trump nominated Tenth Circuit judge Neil Gorsuch of Colorado to fill the vacancy left by the death of Supreme Court Justice Antonin Scalia. Judge Gorsuch, in my opinion, is the ideal choice to fill this seat. He has impeccable credentials and a decade-long record on the bench demonstrating a keen understanding of the proper role of a judge.

Given the increasingly contentious nature of the confirmation process, it is not surprising that many of my colleagues on the other side of the aisle and their special interest group allies are stretching to find anything objectionable about Judge Gorsuch, no matter how ridiculous.

Today, I wish to address one of their latest, most outlandish claims: that Judge Gorsuch would not serve as an independent check on the executive branch. For example, last week in Politico, Senator SCHUMER, the distinguished Senator from New York, declared in an opinion piece: "The most important factor in assessing a Supreme Court nominee . . . is whether or not the potential justice will be an independent check on an executive who may act outside our nation's laws and the Constitution." Senator SCHUMER doubled down on these comments in the New York Times. There, he argued that it was impossible for him to discern Judge Gorsuch's judicial independence when they met in person. Why? Because Judge Gorsuch refused to say how he would rule on specific issues or how he would review particular government actions. These misleading narratives are an irrelevant, wasteful distraction from our consideration of Judge Gorsuch's sterling record and the merits of confirming him to the Supreme Court.

Last month, I warned that the left would use these diversion tactics in an attempt to discredit the President's nominee. Shortly before Judge Gorsuch's nomination was announced,

I predicted in an opinion piece in the Washington Post that advocates and interest groups would want to know how the nominee would decide particular cases before those cases ever reached the Court to make sure the nominee is on the right team. I was right.

Our Nation's Founders would have been embarrassed by such questions. Instead, the questions we ask should focus on whether the nominee will interpret and apply the law faithfully and neutrally no matter what the issue is. After all, that is what our Constitution demands.

Our Founders are not the only ones who would be embarrassed. I have been in the Senate for the last dozen Supreme Court confirmations. Every nominee we have considered has rightly refused to answer such questions. Consider, for example, Justice Ginsburg's response at her confirmation hearing. She said:

A judge sworn to decide impartially can offer no forecasts, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process.

Just last month in a speech in Arizona, Justice Sotomayor had an even stronger warning against asking and answering such questions. She said:

What you want is for us to tell you how as a judicial nominee we're going to rule on the important issues you find vexing. . . . Any self-respecting judge who comes in with an agenda that would permit that judge to tell you how they will vote is the kind of person you don't want as a judge.

So let's stop with this nonsense of trying to get Judge Gorsuch to pre-judge issues that could come before the Court. I hope my colleagues appreciate the irony in asking a judge to say how they would rule on particular issues in order to prove that the judge is judicially independent. I agree with Justice Sotomayor: A nominee who will tell you how she would vote is the kind of person you do not want as a judge.

But if judicial independence really is the most important factor, as Senator SCHUMER suggests, then this confirmation process should be the easiest one in the Senate's history. Over 11 years on the Tenth Circuit, Judge Gorsuch has consistently demonstrated in his judicial opinions and other writings that he deeply values the constitutional separation of powers between the three branches of the Federal Government. Judge Gorsuch understands that the Constitution gives each branch distinct roles: Congress makes the laws, the President enforces those laws, and the courts interpret those laws and the Constitution. The branches may act only according to the powers the Constitution grants them, with the remaining powers and rights reserved to the States and ultimately to the people.

With respect to the power of the executive branch, Judge Gorsuch has a strong record of reining in actions which violate the Constitution and the

law. Perhaps the best example is his opinion in the immigration case *Gutierrez-Brizuela v. Lynch*. There, the Attorney General attempted to apply a new agency rule retroactively prohibiting a noncitizen from receiving relief under Federal immigration law. Writing for the Tenth Circuit, Judge Gorsuch ruled that such action exceeded the executive's power to enforce the law.

In a separate opinion, he noted that there is an elephant in the room: the so-called *Chevron* deference doctrine, which requires courts to defer to Federal agency interpretations of the law we pass. He expressed constitutional concerns about *Chevron* deference. Judge Gorsuch wrote:

[T]he fact is *Chevron* . . . permit[s] executive bureaucracies to swallow huge amounts of core judicial and legislative power and concentrate federal power in a way that seems more than a little difficult to square with the Constitution of the framers' design. Maybe the time has come to face the behemoth.

Judge Gorsuch then proceeded to provide a textbook explanation of the proper separation of powers under our Constitution. As he stated, the Founders included a strong separation of powers in the Constitution because "[a] government of diffused powers, they knew, is a government less capable of invading the liberties of the people."

As my colleagues know, I am no fan of *Chevron* deference. Last Congress, I introduced the Separation of Powers Restoration Act to get rid of it. As I noted when I introduced the legislation, regulators have taken advantage of the courts' deference under *Chevron* to shoehorn the law for their own political agenda, expanding their authority well beyond congressional intent. But the Constitution's separation of powers makes clear that it is the responsibility of the courts, not the bureaucracy, to interpret the law. So I am pleased Judge Gorsuch understands that the Constitution requires Federal judges to serve as an independent check on how Federal agencies interpret the laws we enact.

Separation of powers is not just about ensuring that the executive branch performs its proper role of executing the law; separation of powers is also about making sure Federal judges understand their proper role under the Constitution. As Chief Justice Marshall famously explained in *Marbury v. Madison*, judges have a constitutional duty to say what the law is. Simply put, judges must be faithful interpreters of our laws and the Constitution.

Under our constitutional separation of powers, it is not the role of Federal judges to make or change laws by imposing their own policy preferences. It is not their role to look beyond the law to consider their personal views and feelings. And it is not their role to choose winners and losers based on subjective beliefs that favor one group over another.

In my 40 years in the Senate, I have reviewed the record of hundreds of nominees for the Federal bench. I don't think I have ever reviewed the record of a nominee who better understands his proper role under the Constitution than Judge Gorsuch. Consider, for example, Judge Gorsuch's touching tribute to Justice Scalia that was published last year in the *Case Western Reserve Law Review*. In that speech, Judge Gorsuch eloquently explained how judges should not be in the business of ruling in ways that reflect their own political views or policy preferences. Judges, after all, are not elected legislators. Instead, judges should interpret the law as written. They must start with the text of the statute and then utilize the traditional tools of statutory interpretations to discern the meaning of any particular law.

Judge Gorsuch understands, to borrow from Alexander Hamilton, that the judiciary should be the least dangerous branch. These aren't just words; Judge Gorsuch's judicial record confirms that he lives this judicial philosophy of restraint and humility.

In an essay I published last week on SCOTUSblog, I reviewed a number of judicial opinions by Judge Gorsuch that demonstrate his commitment to the separation of powers and the proper role of a judge in our Federal system. I will not go through all of those cases here, but I ask unanimous consent that the essay be printed in the *RECORD*.

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

[From SCOTUSblog]

WORRIED ABOUT THE SEPARATION OF POWERS?  
THEN CONFIRM JUDGE GORSUCH  
(By Senator Orrin Hatch)

Last week, President Donald Trump nominated Judge Neil Gorsuch to replace Justice Antonin Scalia on the U.S. Supreme Court. Judge Gorsuch is an ideal choice to fill this seat: He has impeccable credentials and a decade-long record on the bench demonstrating a keen understanding of the proper role of a judge. Given the increasingly contentious nature of the confirmation process, it is no surprise that many Democrats are stretching to find anything objectionable about Judge Gorsuch, no matter how ridiculous. In the current political environment, they have focused much of their criticism on one particularly strained argument: their claim that Justice Gorsuch would not serve as an independent check on the executive branch.

Fortunately, we do not have to speculate about how Justice Gorsuch would decide these kinds of cases. Judge Gorsuch has consistently demonstrated in his judicial opinions and other writings that he deeply values the constitutional separation of powers between the three branches of the federal government. Judge Gorsuch understands that the Constitution gives each branch distinct roles: Congress makes the laws, the President enforces those laws, and the courts interpret those laws and the Constitution. The branches may act only according to the powers the Constitution grants them, with the remaining powers and rights reserved to the states and, ultimately, to the people.

With respect to the power of the executive branch, Judge Gorsuch has a strong record of reining in unlawful overreach. For instance,

in *Gutierrez-Brizuela v. Lynch*, the Attorney General had attempted to apply a new agency rule retroactively to prohibit a noncitizen from receiving relief under federal immigration law. Writing for the U.S. Court of Appeals for the 10th Circuit, Judge Gorsuch concluded that such action exceeded the executive's power to enforce the law. In a separate opinion, he went one step further and expressed concerns about how judge-made doctrines that require judicial deference to federal agency actions—namely, *Chevron* deference and its progeny—"permit executive bureaucracies to swallow huge amounts of core judicial and legislative power and concentrate federal power in a way that seems more than a little difficult to square with the Constitution of the framers' design." Judge Gorsuch then proceeded to provide a textbook explanation of the proper separation of powers between the three branches, concluding that "[i]t was to avoid dangers like these, dangers the founders had studied and seen realized in their own time, that they pursued the separation of powers. A government of diffused powers, they knew, is a government less capable of invading the liberties of the people."

Nor is Judge Gorsuch a supporter of federal judges who go beyond their constitutional role in interpreting the law. As Judge Gorsuch has eloquently explained, "judges should be in the business of declaring what the law is using the traditional tools of interpretation, rather than pronouncing the law as they might wish it to be in light of their own political views, always with an eye on the outcome, and engaged perhaps in some Benthamite calculation of pleasures and pains along the way." It is not judges' role to make or change laws by imposing their own policy preferences instead of what Congress actually passed. It is not their role to look beyond the text of the law to consider their personal views and feelings. And it is not their role to choose winners and losers based on subjective beliefs that favor one group over another. Judge Gorsuch's opinions reinforce his judicial philosophy of restraint and humility and his proper understanding—to borrow from Alexander Hamilton—that the judiciary should be the "least dangerous" branch.

Consider, for example, *United States v. Games-Perez*. There, the 10th Circuit upheld a conviction for possession of a firearm by a felon. The criminal defendant argued that he was unaware that he was a convicted felon, but the court rejected this argument as foreclosed by the court's prior precedent. Judge Gorsuch penned a separate opinion. He agreed that the court was bound by its own precedent, but he wrote separately to urge the court to reconsider its precedent in light of the plain text of the statute that requires the government to prove the defendant knew he was a convicted felon. As Judge Gorsuch explained, "we might be better off applying the law Congress wrote than the one [the court] hypothesized. It is a perfectly clear law as it is written, plain in its terms, straightforward in its application." He continued: "Of course, if Congress wishes to revise the plain terms of [the statute], it is free to do so anytime. But there is simply no right or reason for this court to be in that business."

Sometimes a judge is asked to consider the proper separation of powers between all three branches. For instance, in *Hobby Lobby Stores, Inc. v. Sebelius*, the 10th Circuit considered whether certain regulations issued by the U.S. Department of Health and Human Services under the Patient Protection and Affordable Care Act violated the plaintiffs' rights under the Religious Freedom Restoration Act. In particular, the plaintiffs argued that the regulations' health

insurance mandate for employers violated RFRA's statutory protections on religious freedom by forcing employers to provide health insurance coverage for abortion-inducing drugs and devices. Judge Gorsuch's opinion explained why the owners of one of the plaintiff companies were entitled to relief under RFRA. As an initial matter, he noted that the owners' "religious convictions are contestable" and that "[s]ome may even find [their] beliefs offensive," but that RFRA "does perhaps its most important work in protecting unpopular religious beliefs."

Judge Gorsuch then turned to the statutory interpretation question at issue and noted that the case was a "tale of two statutes." Wrote Judge Gorsuch: "The ACA compels the [plaintiffs] to act. RFRA says they need not. We are asked to decide which legislative direction controls." To decide which statute controlled, he did not defer to the executive branch's position on the matter. Nor did he seek to impose his own policy preferences. To the contrary, he noted that "[t]he tiebreaker is found not in our own opinions about good policy but in the laws Congress enacted." Because "Congress structured RFRA to override other legal mandates, including its own statutes, if and when they encroach on religious liberty," and "because the government identifies no explicit exclusion in the ACA to its dictates," Judge Gorsuch concluded, RFRA's directive prevailed.

Even a casual review of Judge Gorsuch's opinions should eliminate any concerns my Senate colleagues may have concerning his commitment to the Constitution's separation of powers. In his opinions, Judge Gorsuch has resisted executive branch efforts to make laws as opposed to merely enforcing those laws as written. Indeed, his opinions and other writings cogently make the case for this approach to separation of powers in a way that finds few rivals on the federal bench and reminds me much of the case Justice Scalia made during his time on the Court. Judge Gorsuch, moreover, has been a model of respect for the proper judicial role, a judicial philosophy under which "judges seek to interpret texts as reasonable affected parties might have done rather than rewrite texts to suit their own policy preferences."

To be sure, that Justice Gorsuch would be a fierce defender of the separation of powers and the rule of law does not mean his rulings will match his policy preferences, much less mine. In fact, in his tribute speech to Justice Scalia last year, Judge Gorsuch embraced Justice Scalia's philosophy of judicial restraint: "If you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach." That is precisely why Judge Gorsuch is the right choice for the Supreme Court.

Mr. HATCH. To be sure, that Justice Gorsuch would be a fierce defender of the separation of powers does not mean his rulings will match his policy preferences. As Justice Scalia wisely remarked, good and faithful judges will not always like the conclusions they reach in interpreting the law. And it certainly does not mean that his rulings will match my policy preferences or those of my colleagues. As I have repeatedly stated on this floor over decades, that is not the proper inquiry when we assess the qualifications of a nominee to the Federal bench. Federal judges must be judges, not super-legislators.

The bottom line is, even a casual review of Judge Gorsuch's opinions should eliminate any concerns my colleagues may have concerning Judge Gorsuch's commitment to the Constitution's separation of powers. Any review would lead to that conclusion. In his opinions, Judge Gorsuch has resisted executive branch efforts to make laws as opposed to merely enforcing those laws. Judge Gorsuch's opinions and other writings make the compelling case for separation of powers in a way that finds few rivals on the current Federal bench.

If my colleagues are truly concerned about the proper separation of powers between the three branches of government, there is a simple solution: Confirm Judge Gorsuch as an Associate Justice on the United States Supreme Court.

#### REPEALING AND REPLACING OBAMACARE

Mr. President, I want to once again discuss the ongoing effort to repeal and replace the so-called Affordable Care Act. This is one of our most vexing issues of the day. Of course, this isn't the first time I have come to the floor to discuss ObamaCare, and I am fairly certain it won't be the last.

I was here just last week, in fact, talking about the general unanimity among Republicans on these issues, despite the seemingly eternal focus on the supposed divisions among our ranks. While some are still advancing that narrative, Republicans are, overall, still united in our desire to repeal and replace ObamaCare. As I said last week, I don't know if there is a single Republican in Congress who supports keeping the healthcare status quo in place. All of us want to right what went wrong with the poorly named Affordable Care Act and provide patients and consumers with more healthcare choices that address healthcare costs.

Most differences of opinion that do exist on these matters are more about timing than anything else. As I have said before, I support moving quickly to repeal ObamaCare and include as many replacement policies as possible under the rules of the reconciliation process. More specifically, I support repealing ObamaCare's harmful taxes, and I will explain why.

Put simply, the tax provisions in ObamaCare were poorly conceived and recklessly enacted, and they are harmful to our economy. Those taxes came in a number of forms, including the employer mandate and the individual mandate, both of which are enforced through the Tax Code.

In addition, there is the health insurance tax, the Cadillac tax, along with new taxes on healthcare savings and pharmaceuticals. ObamaCare also included a payroll tax hike for some high-income earners as well as additional taxes on investing. And, of course, we cannot forget the medical device tax, which, in just the first 3 years that ObamaCare was implemented, resulted in more than 30,000 lost jobs in that important industry.

All told, the tax provisions of the Affordable Care Act represented a trillion-dollar hit on the U.S. economy in the first 10 years, and the burdens of the vast majority of these taxes are ultimately borne by patients and consumers in the form of higher costs, larger tax bills, and reduced value in existing health plans and savings accounts.

I know some of my colleagues like to plead ignorance on the notion that taxes on a particular industry tend to be passed along to that industry's consumers, but it is a fact that can't be ignored. Taxes on health insurance plans increase premiums for patients. Taxes on drug companies make drugs more expensive. Taxes on medical device sales increase the costs of those devices.

It is not a complicated concept; it is the natural byproduct of tax provisions negotiated with stakeholders behind closed doors under threat of increased government intrusion and market regulation. These taxes weren't drafted solely to pay the cost of ObamaCare; they were also part of a strategy to get the law through Congress, dividing the business community and pitting industries against one another to prevent widespread opposition. As I said, at the end of the day, it is patients and consumers—individuals and families—who pay most of the freight on these types of tax policies.

Don't take my word for it. Let's look at one major example. Congress's non-partisan scorekeeper, the Joint Committee on Taxation, indicated that, by and large, the tax on health insurance premiums would be passed along to health insurance policyholders.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the JCT to Senator GRASSLEY, dated October 28, 2009.

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

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON TAXATION,  
Washington, DC, October 28, 2009.

Hon. CHARLES E. GRASSLEY,  
Ranking Member, Committee on Finance, U.S.  
Senate, Washington, DC.

DEAR RANKING MEMBER GRASSLEY: You requested that we provide you with an analysis of the incidence of the insurance industry fee provision of S. 1796, the "America's Healthy Future Act," our estimate of the effect on the after-tax price of purchased health insurance, and a distributional analysis of the provision.

#### INSURANCE INDUSTRY FEE

Sec. 6010 of S. 1796 would impose an annual fee on any covered entity engaged in the business of providing health insurance with respect to United States health risks. Under the provision, employers who self-insure their employees' health risks and governmental entities are not covered entities.

The fee applies for calendar years beginning after 2009. The aggregate annual fee for all covered entities is \$6.7 billion. Under the provision, the aggregate fee is apportioned among the covered entities based on a ratio designed to reflect their relative market share of U.S. health business.

For each covered entity, the fee for a calendar year is an amount that bears the same



ratio to \$6.7 billion as (1) the covered entity's net premiums written during the preceding calendar year with respect to health insurance for any United States health risk, bears to (2) the aggregate net premiums written of all covered entities during such preceding calendar year with respect to such health insurance.

#### INCIDENCE OF INSURANCE EXCISE TAXES

The proposed fee is similar to an excise tax based on the sales price of health insurance contracts. The effective excise tax rate varies from year to year depending upon the aggregate value of health insurance sold. The economic incidence of an excise tax imposed on sale of health insurance contracts (that is, who actually bears the cost of the tax) may differ from the statutory incidence of the tax (that is, the person on whom the tax is levied). Taxes may be borne by any of the following: consumers in the form of higher prices; owners of firms in the form of lower profits; employees in the form of lower wages; or other suppliers to firms in the form of lower payments. This makes generalizations about the incidence of taxes difficult to make. Nonetheless, two principles have general validity. First, economic incidence does not depend on whom the tax is levied. Whether the statutory incidence of the tax is on the consumer, the employer, or the insurer, the economic incidence is the same regardless of who writes the check to the government. Second, taxes are shifted from those who are more sensitive to price changes (economists describe these individuals and entities as having more "elastic" supply and demand) to those who are less sensitive to price changes (those with more "inelastic" supply and demand).

In the case of competitive markets, an excise tax generally is borne entirely by consumers in the form of higher prices in the long term. An excise tax increases the cost of producing an additional unit, or incremental cost, of the taxed good by the amount of the tax. In a competitive market, market forces cause the after-tax price of a good to equal the additional cost of producing and selling another unit of the good. Competition drives the price down to equal the incremental cost of the provision of the good or service, including the return to incremental invested capital. If supply is perfectly responsive to price changes, any price above incremental cost would induce new firms to enter and increase production until prices were bid back down to incremental cost. Similarly, any price below incremental cost would induce firms to exit or reduce production (because they would now be losing money selling the taxed good). The reduction in supply allows prices to increase back up to incremental cost.

This response may be observed even if some of the participants in the competitive market do not seek to maximize profits as their primary objective. Tax-exempt and nonprofit producers may also pass on the tax as they also face the increased incremental cost, which they will need to recover. If they cannot, for example, raise additional funds from donors, effectively passing the tax on to them, their alternative is to pass on the tax to consumers in the form of higher prices.

While consumers are thought to bear the burden of excise taxes in competitive markets, some may question the degree of competition in health insurance markets. Recent surveys have noted that many markets are characterized by the presence of only a few firms. Additionally, there may exist barriers to entry in the health insurance market, including multiple State regulatory requirements, the cost of establishing health provider networks, health provider network ef-

fects (i.e., the value of a health provider network to consumers rises with the size of the network), and efficiencies in risk shifting and risk distribution for large firms.

However, the absence of many competitors does not by itself imply that there is no competitive pressure on prices. The threat of potential entrants may provide competitive price pressure on the existing firms. Furthermore, the option to self-insure may provide a source of potential competition for full, purchased insurance, at least for larger firms.

If the insurance industry is not perfectly competitive in a particular market, the question remains as to what extent an insurance excise tax would be borne by consumers or producers in that market. Theoretical analysis has shown that, depending upon market conditions, the price could increase by: (1) more than the amount of the tax; (2) exactly the amount of the tax; or (3) less than the amount of the tax. Various empirical studies have examined the effect of excise taxes on prices in less than perfectly competitive markets. Studies of the tobacco industry suggest that manufacturers pass on more than the full amount of the tax, while studies of less than perfectly competitive retail gasoline markets in rural areas suggest that producers pass on nearly all of the tax. Even in the rural retail gasoline markets in which gas stations may be the sole provider of gasoline for many miles and firms exhibit some pricing power, nearly 95 percent of the excise tax is still passed on to consumers.

While uncertainty exists, we assume that a very large portion of the excise tax on purchased insurance will be borne by consumers in most markets, including in some markets with a high level of concentration among market participants covered by the proposed excise tax. In the context of general health care reform legislation, this assumption is further supported by the presence of an excise tax on individuals without minimum essential benefits coverage, which is likely to make demand for insurance somewhat less sensitive to changes in price, as consumers will have to buy insurance or face a penalty. While consumers (or employers) may respond by changing their insurance coverage from more expensive coverage to less expensive plans to offset any potential price increase, this behavior too is properly characterized as the consumers bearing the burden of the excise tax by accepting lower quality (for example, a more restricted physician network) for the same price rather than paying a higher price for the quality of insurance that they would prefer if there were no tax. To the extent that firms can avoid the tax by switching from full insurance to self-insurance, this may suggest that insurers are unable to pass on the full cost of the excise tax on purchased insurance. Increased self-insurance from firms avoiding the excise tax may increase the cost of this health benefit to employees as firms that previously chose full insurance, presumably because it cost less in the absence of the excise tax than self-insurance, switch to higher cost self-insurance. Additionally, to the extent that insurers maintain some pricing power in the administrative services that they provide self-insurers, the self-insurance market may bear some of the burden of the excise tax as well.

#### EFFECT OF THE FEE ON THE COST OF PURCHASED HEALTH INSURANCE

The aggregate value of the proposed fee is the same for each year. The current law baseline for health insurance premiums projects rising health insurance premiums annually through the budget period. Consequently the magnitude of the proposed fee declines annually relative to the sale of health insurance. Given the incidence analysis discussed above, while there is

incertainty, we expect a very large portion of proposed insurance industry fee to be borne by purchasers of insurance in the form of higher premiums. Our estimate is that the premiums for purchased health insurance policies, including the tax liability, would be between 1.0 and 1.5 percent greater than they otherwise would be as a consequence of the industry fee for calendar years 2010, 2011, and 2012.

#### DISTRIBUTIONAL ANALYSIS OF THE INSURANCE INDUSTRY FEE

Regardless of the determination of the economic incidence of the proposed insurance industry fee of S. 1796, at the present time the staff of the Joint Committee on Taxation is not able to distribute the effects across individuals on our individual tax model. The proposed insurance industry fee would apply only to the revenues from underwritten policies sold to third parties. It would not apply to the value of health benefits received by individuals through their employers who self-insure the health risks of their employees. Our individual tax model is based upon a sample of approximately 180,000 actual tax returns. To distribute proposed tax changes related to economic activity that is not already reflected on the individual tax return we impute values or statistically match supplemental information such as data gathered by the Census Bureau, to the individual tax returns of our model. For our quantitative analysis of employer-provided health benefits we have made such imputations of data relating to employees' employer-provided health care benefits to the individual model. These imputations are based on the data collected as part of the Medical Expenditure Panel Survey ("MEPS"), a survey undertaken by the Agency for Healthcare Research and Quality of the Department of Health and Human Services. However, the imputations we have made to the individual tax model at this time relate only to the value of employer expenditures for the health care of their employees. These imputations do not generally distinguish between the employers' purchased insurance coverage and benefits for which the employer self-insures. Consequently, we are unable to distribute either the economic incidence or the revenues generated from the proposed fee of S. 1796, which applies only to purchased health insurance.

I hope this information is helpful to you. Please contact me if we can be of further assistance.

Sincerely,

THOMAS A. BARTHOLD.

Mr. HATCH. While we are setting the record straight on ObamaCare, my colleagues on the other side have repeated a particular false claim that needs correction. My Democrat friends are fond of characterizing the repeal of ObamaCare as a tax cut for high-income earners and a tax increase for low- and middle-income taxpayers. That claim is simply false.

According to JCT, the Joint Committee on Taxation, the Affordable Care Act imposed significant and widespread tax increases on taxpayers earning less than \$200,000 a year, despite President Obama's repeated promises that the law would not do so. In fact, in 2017, a single provision—the reduction in the deductibility of catastrophic losses—is projected to raise taxes on 13.8 million taxpaying families and individuals, mostly from the middle class. That is more than the number of taxpayers who receive exchange credits and other premium subsidies under



current law. That is just one example. There are others.

Fortunately, we have been able to forestall the impact of a number of the ObamaCare tax provisions. We have fought and negotiated long and hard to do so, but virtually all of those taxes are still looming on the ObamaCare horizon.

Most of us on the Republican side have been fighting these taxes more or less since the day ObamaCare was signed into law. We have highlighted their harmful impact on the economy and decried the crony capitalism that was behind the effort to draft and enact them.

Given this long history, at least in my view, it is essential that we repeal all of these taxes, along with the rest of ObamaCare. It is difficult to imagine how Republicans, who are now in the majority in large part due to the promises we made to repeal and replace the Affordable Care Act, can now sift through ObamaCare's taxes and decide which ones are the least objectionable so that we can use them to pay for our own healthcare reforms.

ObamaCare isn't problematic simply because healthcare costs are not going up; it was fundamentally flawed at the outset. The way the law was drafted was, and still is, a problem. The way the law was negotiated—with stakeholders being played against each other—was, and still is, a problem. Of course, the way the law was paid for was, and still is, a problem. The ObamaCare taxes are a big part of this equation. In my view—and, I think, the view of the vast majority of my Republican colleagues—they have to go.

As I said, there really are not widespread disagreements among Republicans on these issues. Overall, we broadly agree on the fundamental issues surrounding ObamaCare, and, as I noted last week, it is not all that problematic to have some differences of opinion on the initial stage, so long as we can overcome those differences in the end. I think we can do that. More importantly, I think we will.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. LEE). The Senator from Illinois.

Mr. DURBIN. Mr. President, pending before the U.S. Senate is the nomination of MICK MULVANEY, a Congressman who is seeking to be the Director of the Office of Management and Budget.

If you were to ask the people of America about the Cabinet positions filled by the President, the one they probably would miss is the Office of Management and Budget. It turns out to be one of the more important positions, but it is not as well known historically as Treasury Secretary, Secretary of State, and Attorney General. It is an important job. It is one of the most consequential jobs because the Director of the Office of Management and Budget is responsible for preparing the President's budget, setting the priorities of the Federal budget, and overseeing the performance of Federal

agencies. It is a big and challenging job.

Many other nominees for positions in the Cabinet are well known and have been debated on the floor of the Senate. Today I come to say a few words about the record of this Congressman, MICK MULVANEY, who is seeking this directorship of the Office of Management and Budget. It is a very interesting record.

It is not unusual for Members of the House and the Senate to have unusual positions on issues. I guess each one of us has something we believe intensely that other people question. When it comes to Congressman MULVANEY, there is a long litany of positions he has taken that are far out of the mainstream of either political party. Yet President Donald Trump decided this is the man, this is the person he wanted to head up his budgeting effort. This is the person he wants to set the priorities for spending in the United States of America during his Presidency.

If you look at the record of MICK MULVANEY, you will find that he has had an eagerness to dictate large and draconian cuts across the Federal Government in some of our most important and most cherished programs. Let me tell you about a few that highlight his record in Congress. Each one of these that I will speak to, if advanced by the Director of the Office of Management and Budget, would have far-reaching consequences on families and individuals across the United States, not only in the operation of government but also in the effectiveness of our Federal workforce.

To start with—and this, I think, is the right place to start—Congressman MULVANEY, who seeks the position of Director of the Office Management and Budget, has repeatedly led efforts to shut down the Federal Government. When Mr. MULVANEY and the Republicans succeeded in shutting down the government for 16 days in 2013, it cost the American economy \$20 billion. Do you remember that?

Rush Limbaugh got on his radio show and said: If they shut down the government, no one will even notice.

Guess what, Mr. Limbaugh. They noticed.

All across America, working families paid the price for that foolish political act of shutting down the government. The real cost of the government shutdown is not just measured in dollars. The real cost is in hardships unnecessarily created, hardships for Federal employees who didn't receive their checks on a timely basis, hardships for people struggling to survive in America, who relied on programs like food stamps. We call them SNAP benefits now. They had their food in jeopardy and endangered because Congressman MULVANEY and his friends thought that a display of political power—shutting down the government—was the right recipe for America.

These government shutdowns delayed 2 million Federal workers from receiving

their checks, real people with real families to feed. Congressman MULVANEY doesn't seem to care about these real-world consequences of a shutdown. Instead, he called the shutdown of the Federal Government "good policy." Those are his words: "good policy."

Then, when we finally reached an agreement to reopen the government, he was one of the few Members of the House to vote against the compromise in reopening the government.

In recent years, he has repeated his calls. He is willing to shut down the government of the United States of America to defund Planned Parenthood. This man wants to craft our national budget, and he would shut down the government over one provision in that budget? That is what he said.

Time and again, he has taken extreme positions on the Federal budget. We have a standing tradition in the House and the Senate. Since not one of us can predict when the next natural disaster is going to occur, we try to help one another.

I have voted for funds during the course of my congressional career for disasters in probably every State in the union. Do you know why? Because I knew the day would come—and it did, several times during my tenure in the House and Senate—when there would be a natural disaster in my State, and we needed a helping hand, emergency disaster assistance. That is a tradition which has been around Congress—I can go back almost centuries to see it in past history.

Listen to what Congressman MULVANEY did. He tried to block emergency disaster assistance to States that desperately needed the help of the Federal Government in their recovery efforts. He offered a poison pill amendment to the Hurricane Sandy relief package that would have required across-the-board cuts in military spending—military spending—to pay for disaster relief from Hurricane Sandy. Then he went further and said: Not just military spending, I want cuts in entitlement programs—Medicare, Medicaid. Let's cut the healthcare assistance for Americans to pay for that disaster. That is his idea of social justice.

Despite President Trump's campaign promises to rebuild the Nation's crumbling infrastructure, Congressman MICK MULVANEY has taken an extraordinary and extreme view. He wants to eliminate Federal funding for transportation projects. He cosponsored a bill that would slash the Federal gas tax. That is how we pay for repairing Federal roads and mass transit across America. He isn't interested in fixing the highway trust fund solvency problems. His solution is to bankrupt it.

This is the man who wants to write the budget for America? His extreme ideology would threaten billions of dollars that my State receives in Federal transportation funds. We put money into the Federal highway trust fund,

too, every time we buy a gallon of gas in Illinois. He would cut back on the resources coming back to my State and others to repair the very roads we drive on.

He has consistently supported across-the-board cuts for the Department of Defense, regardless of those affected. Just a few minutes ago, Senator JOHN MCCAIN, the senior Senator from Arizona, came to the floor to announce that because of Congressman MULVANEY's positions on cuts in the military, he—Senator MCCAIN—would oppose the appointment of MULVANEY as head of OMB. Senator MCCAIN said that it is a rare day when he comes out against a Presidential nominee of his own party. But he thinks MULVANEY's record is worrisome, and I couldn't agree more. The positions that Congressman MULVANEY has taken are reckless and would jeopardize the economic security of working families and put our Nation and economy at risk.

Possibly one of the most troubling positions that Congressman MULVANEY has taken is the fact that he is opposed to the Federal Government spending funds for medical research. Last year when Congress was deliberating how to combat the Zika virus, Representative MULVANEY wrote this on his Facebook page: "Do we really need government-funded research at all?"

Let's think about that for a moment. Do we really need government-funded medical research in the United States? Do we need the National Institutes of Health, the Department of Defense, and the Veterans' Administration investing in trying to find new cures for diseases?

Government-funded research in the Department of Defense has produced fascinating insights into the biology of breast cancer that have greatly impacted the treatment of that disease and saved lives in America. Look at the revolutionary Department of Defense-funded work that led to the development of the innovative drug Herceptin. Government-funded research, which Congressman MULVANEY does not believe we should do, at the National Institutes of Health has accomplished the following. It has cut the U.S. cancer death rate by 11 percent in women and 19 percent in men. And Congressman MULVANEY says: Do we really need to do that? Is that important? I would guess that his family, like every family in America, has a story to tell about cancer—what it has meant, the devastation it has created, the deaths that have resulted.

But Congressman MULVANEY doesn't get it. He just doesn't understand anything as basic as investing in medical research to save lives. HIV/AIDS is no longer a death sentence in America. I saw Magic Johnson just a few weeks ago at a farewell party for President Obama. I remembered the day in the House of Representatives when I was told that he had AIDS. We assumed he would die in just a short period of time. But that was over 25 years ago. He has

survived because of research that was done at the National Institutes of Health, and he is not alone. There are thousands just like him.

When I was a kid, polio was something every mother and father were frightened of. What in the world was happening? How could your child be infected with polio and end up being crippled for life? Our Republican leader here, MITCH MCCONNELL, went through that in his childhood and has talked about that episode in his life and how devastating it was. He has had a full life since then, but he has overcome the problems of that disease. I remember as a kid in grade school, when they announced that our government research had come up with a vaccine that would protect kids from polio. That, to me, was a breakthrough, and one that I welcomed and our family welcomed.

Congressman MULVANEY questions whether or not medical research should continue, even in the light of the achievements in eradicating polio and small pox and other diseases in our country. These advances didn't just magically happen because of the miracle of the marketplace. They occurred because of sustained taxpayer investment in Federal medical research.

I will tell you this. If he wants to make a referendum in the Senate or the House on medical research a part of his budget debate, I welcome the challenge. I believe that Members of both political parties would stand up for medical research, despite Congressman MULVANEY's extreme positions.

So when someone asks if we really need government-funded medical research, the answer on behalf of cancer patients who are beating the disease, on behalf of HIV/AIDS patients who are living longer and normal lives, on behalf of all those families hoping and praying that some Federal researcher will come up with a breakthrough for Alzheimer's, for autism, or Parkinson's or diabetes—the answer, Congressman MULVANEY, is unequivocally, yes. America needs to invest in medical research. And the fact that you would question it really raises the question of your judgment.

Let me tell you another thing that he is for, which I think is the single most irresponsible budgetary position he has taken. He has been an opponent of raising the country's debt ceiling.

What is the debt ceiling? That is America's mortgage. That is the amount of debt we incur as a nation. It is a mortgage that is incurred for things that we have already spent money on. So when we come and vote for \$600 billion for the Department of Defense and the intelligence agencies and we don't have enough money coming in taxes to pay for it, we have to extend America's mortgage to cover it. Congressman MULVANEY says that is the wrong thing to do—extending the debt ceiling of this country. While running for Congress, Congressman MULVANEY, who now wants to manage our Nation's budget, pledged he would

never ever vote to raise the country's debt ceiling. He voted against it four different times.

In 2011, when we were just about to breach the debt limit and default on our national debt for the first time in the history of our country, MULVANEY was a leading voice in support of default. He called it a "fabricated crisis," and accused both parties of "fear mongering."

I am not sure what is more disturbing—Mr. MULVANEY's willingness to default on our country's obligations, the full faith and credit of the United States, or his lack of appreciation for the devastating economic consequences which would follow. I can tell you what is at risk with that kind of reckless attitude toward our Nation's debt. What is at risk are the savings and investments and retirement accounts of ordinary Americans across the Nation. Mr. MULVANEY may be willing to gamble the full faith and credit of the United States; I am not. Forcing the Federal Government to default on the Nation's debt would harm the economy and affect the government's ability to make payments to Social Security and Medicare recipients, military personnel, veterans, Federal employees, defense contractors, State governments, and to the bondholders of the United States, here and overseas.

We would lose our credibility if Mr. MULVANEY had his way and allowed us to default on our national debt. We should not ever consider confirming an OMB Director who has repeatedly risked the economic security of our Nation to score political, rhetorical points.

Throughout his campaign, President Trump promised to protect Medicare and Social Security and make decisions that would "benefit American workers and American families." That is a quote. However, instead of making good on the promise, President Trump has chosen a man to head the Office of Management and Budget who has led calls for devastating cuts to Federal programs that millions of Americans rely on every day.

Mr. MULVANEY has said he wants to "end Medicare as we know it," and he has called Social Security a "Ponzi scheme." He has called for raising the retirement age for Social Security to 70, from the 67 that it currently is. Well, 3 more years at work may not mean much to a Member of Congress, because we sit down a lot in these comfortable chairs and people bring us things when we need them. But 3 more years of working before you qualify for Social Security means something to a waitress, whose hips and ankles and knees have been bothering her for years, but she has no choice but to get up every morning, go to work, carry those trays, and try to bring enough money home to help a family. It means something to someone who works in a coal mine—I guarantee you that—3 more years at work, exposing yourself to the lung diseases and other things

that might come with the job. It means something to a truckdriver, spending days and nights on the road. It means something to people who have to move freight around. It is the kind of thing that means a lot to ordinary working people. It clearly doesn't mean anything to Congressman MULVANEY. Three more years working, as far as he is concerned, is an acceptable alternative.

He wants to privatize Medicare and turn Medicare back into the loving arms of private health insurance companies, and let's see what seniors end up experiencing. Almost 60 million Americans now rely on Medicare. In Congressman MULVANEY's point of view, the guarantee of Medicare would end. This is the man President Trump has chosen to head the budget for the United States of America. MULVANEY has called repeatedly for cuts to Social Security, Medicare, and Medicaid, including a "cut, cap, and balance" budget, which would cut each of these programs by 25 percent. When you say the word Medicaid, people have an image in their mind: Oh, that is health insurance for poor people. And that is generally correct, although it also covers disabled Americans. But do you know who the major recipients of Medicaid are in America? The largest single group of people receiving help from Medicaid are children—children in poor, low-income families who get medical care through Medicaid. The biggest expenditure for Medicaid is not children though. The biggest expenditure is for the elderly Americans who are living largely at institutional settings, in these care homes, nursing homes. Medicaid keeps them in that place with adequate medical care. So now comes Congressman MULVANEY and says: Let's just cut those by 25 percent. There is one good way to reduce Federal spending.

Really? So that means fewer immunizations for children. What does it mean for your mother or your grandmother in the nursing home when it is announced that we don't have enough money to cover the cost to keep her here in a good, safe, positive environment? For Congressman MULVANEY, it is just numbers on paper. For real families across America, it is the reality of life.

Much like our new Secretary of Health and Human Services, Congressman Price, Representative MULVANEY wants to dramatically undermine the Medicare Program for our Nation's seniors. Let's look at what Medicare has meant to our country since it was created in 1965. Before Medicare, only 51 percent of Americans 65 and older had health care coverage. Nearly 30 percent lived in poverty. Today, 98 percent of seniors have health care, and less than 10 percent live below the poverty line. Has Medicare worked? You bet it has. It has provided health insurance for seniors, and it has given people dignity and independence in their senior years—something that everyone should

value. And, incidentally, the life expectancy of Americans has grown by 5 years since we created Medicare. It is working. Medicare helps seniors, helps their families, and it helps America. But Congressman MULVANEY doesn't get it.

This man has been chosen by President Trump to write the budget of America. Why is Congressman MULVANEY so hell-bent on ending a program like Medicare that 98 percent of our Nation's seniors depend on? Well, I can tell you, if his comments on Medicare scare you, on Medicaid he is even worse. This program, combined with the Children's Health Insurance Program, ensures health coverage for 70 million Americans. One out of every five nationwide depend on Medicaid. It helps low-income families, pregnant women, children, and those with disabilities. Currently, if you qualify for Medicaid, you are guaranteed to get health coverage. Congressman MULVANEY thinks he has a better idea. He wants to change that.

Congressman MULVANEY wants to significantly cut the Federal funding for Medicaid and leave States to fend for themselves when it comes to caring for these 70 million Americans. Faced with less Federal funding, States would be forced to find ways to cut spending and save money. They might start Medicaid waiting lists or impose work requirements or slash benefits. At the end of the day, the result would be catastrophic.

I just spent the last weekend in Southern Illinois. We had a roundtable down there to talk about the impact of the repeal of the Affordable Care Act. These hospital administrators from smalltown hospitals came in to tell me that losing Medicaid reimbursement could force them to dramatically cut their workforce and maybe even face closure. Here is Congressman MULVANEY suggesting: Let's just do that across America. I wonder where he lives. I wonder if there are any small towns or rural areas near him. I wonder if he values those hospitals the way the people living in communities that I represent value them. These are not only lifelines for people who desperately need timely, professional medical care, but they are the source of the best jobs in the community. Congressman MULVANEY could care less: Let's just keep cutting on Medicaid and see what happens.

What will happen will be devastating. Mr. MULVANEY isn't content with just throwing seniors off Medicare and low-income families off Medicaid. He wants to punish women by taking away their healthcare providers and inserting his own decisions into their medical decisions. Mr. MULVANEY has repeatedly attempted to defund Planned Parenthood health centers, which provide women and men with important cancer screenings, family planning, STD testing, and other important health care services.

The laws of the United States of America provide that not one penny

can be given to Planned Parenthood for abortion services—not one penny under the law. Most people, if asked what percentage of the Planned Parenthood budget is actually spent on abortion services would get it wrong. The actual number is 3 percent. Ninety-seven percent of what Planned Parenthood does, in terms of family planning, cancer screening, STD screening, has no relation directly to abortion services, and that is compensated, but abortion services are not under the law. Congressman MULVANEY could care less. He would close down the sources of family planning in small towns and communities around America.

The concerns I have laid out today are just a few that I have about this nomination. The millions of hard-working Americans who believed President Trump's campaign promises, and as a champion for the most vulnerable, deserve far better than Congressman MULVANEY.

There are real problems facing this Nation. Far too many people are struggling, and there is a lot of work to do. We cannot afford to risk our economic recovery, the retirement plans and savings of working Americans, the health of our children, the kind of care we want for our mothers and grandmothers—we cannot afford to risk them by appointing OMB Director MICK MULVANEY.

I have no choice but to oppose MICK MULVANEY's nomination for Director of the Office of Management and Budget.

Mr. President, MICK MULVANEY is a founder of the House Freedom Caucus, which has made repeal of the Affordable Care Act—without a replacement—one of their main causes. This is not about good policy or the real consequences for people around the country. This is about ideology.

Mr. MULVANEY wants to rip health insurance away from nearly 30 million people and deny people the important consumer protections they have come to depend upon. He would once again allow insurers to impose pre-existing condition exclusions and discriminate based on gender and cut off coverage when someone gets sick and needs it most.

His answer to fixing our health care system is "free-market competition" and "crackdown on frivolous lawsuits. Those might make good talking points, but they will not stabilize our insurance market and help people in need.

The Illinois Hospital Association estimates that Republican plans to repeal the Affordable Care Act will result in the loss of up to 95,000 jobs in Illinois—in hospitals, doctor's offices, construction, real estate, and beyond.

Over the last month, I have been going around my State, meeting with hospitals and providers, talking to them about what repeal would mean. They are worried.

You see, Illinois hospitals and health systems generate nearly \$90 billion in the State and local economies each year, and 1 in 10 jobs in Illinois is in

health care. Hospitals are vitally important to our State's economy and vitally important to patients in need.

Don't just take my word for it, Franklin Hospital CEO, Jim Johnson told me:

In our community, at the time that the hospital in West Frankfort closed, we [Franklin Hospital in Benton] managed to stay open . . . they're just eaten up that they don't have a hospital anymore. It's incredible what the loss of a hospital can do to a small community. And I'm down there talking to those guys every day because naturally I like them to use our hospital . . . but those conversations, it has just torn this community apart.

In Illinois and nationwide, rural hospitals would be particularly hurt by Mr. MULVANEY and Republicans' prescription for chaos.

In Illinois, 62 of our 102 counties are rural. We have 51 Critical Access Hospitals, which are the hubs of their communities. Rural hospitals typically are more reliant on Medicaid and Medicare, and have tighter operating margins.

So what has the ACA meant for them? In States that expanded Medicaid, like Illinois, rural hospitals have seen greater financial stability thanks to the decrease in uncompensated care—or charity care—costs.

Thanks to the Affordable Care Act, the uninsured rate in rural communities has dropped by nearly 40 percent. This is not only great for those individuals obtaining insurance, it is also great for the rural hospitals who are now getting paid for the health services they provide.

Community Health & Emergency Services CEO Fred Bernstein told me:

You can look at Cairo as the ghost of the future. Because there is not much left that we have to lose . . . We've lost the only grocery store, and the only drug store in Cairo. If this Affordable Care Act thing isn't resolved and if we go to block grant in the Medicaid program, there's not going to be any resolution to those problems down there. We are not going to be able to stay open. At least 72-74 percent of my patients depend upon Medicaid . . . Without the expansions of Medicaid that we've already seen, and without some of the subsidies that those who can get some insurance will get to keep that insurance, there's not going to be the ability to afford any care for most of the people we serve.

Since 2009, the number of rural hospitals in Illinois operating in the red has decreased by 46 percent. Put another way, 16 rural hospitals in Illinois are now on much more solid financial footing thanks to the ACA.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

#### TAX REFORM

Mr. COTTON. Mr. President, our Tax Code is a mess. No one voted for it, no one wants it, and no one likes it. I have said many times we should eliminate all of the special interest loopholes in the code and use that money to cut taxes for everyone, including American businesses. We want to encourage them to invest, grow, and create more jobs right here in America.

I know my colleagues are working on a tax bill, and I want to stress how much I support their efforts. I will, of course, withhold judgment on any proposal until I see the final text, but I also want to say today, I have reservations about one idea that is being considered. It is called a border adjustment tax. It sounds like something from Orwell's *Newspeak*.

Here is how it would work. We would cut taxes for corporations. To make up for the lost revenue, we would tax businesses whenever they bought something from another country. For instance, every time Ford bought an auto part from Canada, it would pay a 20-percent tax or every time your local grocery store bought bananas from Guatemala, it would pay a 20-percent tax. Whatever money businesses made from selling their products in other countries would be exempt. In other words, what all this would amount to is a 20-percent tax on imports. The proponents of this tax contend it would stop businesses from leaving our country because right now some are moving overseas to avoid paying our corporate tax rate, which is the highest in the modern industrial world. Under this proposal, it would not matter where you put your headquarters, you would be taxed according to what you bought, not where you put down your stake.

The hope is, this arrangement would mean more headquarters, more factories and the jobs that come with them staying right here in America, which of course is a desirable goal, no doubt, but I am not at all convinced this is the best way to do it. Consider this. It is estimated that this one change alone would produce something like \$100 billion a year in additional tax revenue. That is a lot of money, and someone has to pay for it. I will tell you exactly who is going to pay: working Americans who have been struggling for decades. A tax on imports is a tax on things working folks buy every single day. I am not talking about caviar and champagne. I am talking about T-shirts, jeans, shoes, baby clothes, toys, and groceries.

I have heard from thousands of Arkansans who are already struggling just to get by. Why would we make the stuff they get at Walmart more expensive? Its defenders say the tax will not increase the cost of imports. What will happen, they say, is our exports will be cheaper because we no longer tax them so then more people overseas will buy our exports from us, which means the dollar itself will increase in value. That means imports will not be expensive because you will be able to buy them with a stronger dollar. So even with the tax added on, you will still come out right where you were before.

This logic reminds me of Orwell again: Some ideas are so stupid only an intellectual could believe them. This is a theory wrapped in speculation inside a guess. Nobody knows for sure what will happen. No one can know for sure because currency markets fluctuate

daily based on millions of decisions and events. Just because an economist slaps an equation on a blackboard does not make it real so I am more than a little concerned these predictions will not pan out.

As the old joke goes, after all, economists have predicted nine of the last five recessions. But if that happens, it will not be economists and intellectuals and politicians in Washington and New York left holding the bag; working Americans will get stiffed again.

Finally, I want to say a word about jobs. One of the biggest reasons for fixing the Tax Code is that it would help create more jobs, but if we increase the cost of goods, people obviously can't buy as much, which will hurt retail sales and retail jobs too. Retail companies are the largest private sector employers in almost every State. Are we really going to impose a huge tax on the livelihood of so many Americans and say: Oh, don't worry. It will all work out in the end.

We have to take a hard look at this proposal right now. Therefore, while I support fundamental tax reform and commit to reserve judgment on any final bill until I read it, today I want to put on the record my serious concerns about a border adjustment tax. Many other Senators share those concerns. We most certainly will not keep our powder dry and see working American's railroad with a precooked deal that raises their taxes and increases the price of the stuff they buy every single day.

It is February 15. By law, the President is required to submit a budget to Congress by the first Monday of this month. That was over a week ago. Now, being a new administration, we expect him to be a few weeks late as has typically happened in recent times. The difference this year, though, is that President Trump still does not have a budget director. We are 4 weeks into his Presidency, and we are only just now getting around to confirming his nominee.

For those of you keeping score at home, that is the longest delay in recent history. Every one of the last six Presidents had their budget director confirmed by a week's time—as in 7 days. In other words, what we are seeing is a deliberate act of obstruction. Here is the real problem. We have serious work to do. It is that much more difficult for the President to do his job when all he has is a headless horseman bureaucracy.

Senate Democrats might consider this payback. They might consider it their chance to audition for the 2020 Presidential primary, but the American people are the ones paying the price for this obstruction.

I want to say again, this is not a game. This is not a protest. This is our job. This is what the American people sent us to do. It is time we got down to business. In that spirit, I want to say a few words in support of the President's

nominee for the Director of the Office of Management and Budget, MICK MULVANEY. I don't have to cite or recite MICK's biography for many of you.

He has been representing the good people of South Carolina's Fifth District in the House of Representatives for more than 6 years now. Before that, he led an impressive career as what he called a serial entrepreneur, starting four different businesses. I hear some of them may have even succeeded.

He has worked in fields as varied as law, real estate, homebuilding, and restaurants. He is highly educated and very accomplished. I would like to point out, he is a friend of mine, a trusted confidant, someone whose advice and counsel I have often sought.

I can say with confidence, he will serve President Trump and the American people with dedication and distinction. I believe MICK will bring a needed voice to the President's Cabinet, a voice for fiscal responsibility after so many years of irresponsible sky-is-the-limit spending.

All that experience in the real economy gives him something more than a lengthy resume. He knows from personal experience what it takes to create jobs and create opportunities out of almost nothing. He knows the self-discipline it takes, the hard work, the perseverance. He knows what Americans have to go through every day just to earn an honest dollar. That is why he has been so protective of every taxpayer dollar ever put in his care. That is the kind of man we need as our next OMB Director.

It is only when Washington appreciates what goes into making all of those taxpayer dollars that it will show the taxpayers the respect they deserve. I want to express my strong support for the next Director of the Office of Management and Budget, my friend, MICK MULVANEY.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from New Hampshire.

**Mrs. SHAHEEN.** Mr. President, unfortunately I don't share the enthusiasm of my colleague from Arkansas for MICK MULVANEY to serve as the Director of the Office of Management and Budget. In fact, I have great concerns about this nominee's views on a whole range of issues.

Because those views are far outside the mainstream of this country, I intend to vote against his confirmation. First and foremost, I am concerned about MICK MULVANEY's repeated votes against raising the debt ceiling and his reckless willingness to shut down the government in order to advance his extreme views.

It is Representative MULVANEY's longstanding position that failure to raise the debt ceiling would not precipitate a crisis. He said: "I have yet to meet someone who can articulate the negative consequences." Well, let me articulate the consequences in very simple terms. If we refuse to raise the debt ceiling, we would default on the

national debt, destroy the credit worthiness of the U.S. Government, and trigger a global financial crisis.

As the Governor of New Hampshire, I worked very hard with our State treasurer and with the legislature, through some very challenging fiscal times, to maintain New Hampshire's State bond rating. We did that because we knew that lowering the State's bond rating would mean an increase in costs for businesses trying to borrow money, for the government trying to borrow money, for taxpayers because they would have to pay those increased costs, and it would have a ripple effect across the economy that would have a real impact on the people of New Hampshire.

Representative MULVANEY does not seem to appreciate what would happen if the Federal Government defaulted on our debt. He has argued that the Treasury Secretary could avoid such a crisis by prioritizing interest payments; in other words, paying foreign holders of U.S. debt but not Social Security beneficiaries or the men and women of our Armed Forces, but there is no legal authority to do this. It is impractical, and recent Treasury Secretaries have denounced the idea. We got a foretaste of the consequences of default in 2011, when Representative MULVANEY and others blocked legislation to raise the debt ceiling, a crisis that took nearly 3 months to resolve.

That manufactured crisis shook financial markets, caused a spike in interest rates on U.S. securities, and it led Standard and Poor's to take away America's AAA credit rating, and it cost \$18.9 billion. Who does MICK MULVANEY think paid those \$18.9 billion? It was the people of this country. Representative MULVANEY has repeatedly threatened to shut down the Federal Government.

He helped lead the charge in shutting down the government in October of 2013 in a failed and misguided attempt to repeal the Affordable Care Act. In 2015, he threatened to shut down the government again in order to defund Planned Parenthood. Both of those programs are critically important to the people of New Hampshire. Nearly 1 out of 10 Granite Staters have health insurance thanks to the Affordable Care Act. Planned Parenthood provides accessible, affordable healthcare to women all across the State of New Hampshire, women who, in most cases, could not get their healthcare any other way.

As Senator DURBIN pointed out earlier, 97 percent of the services provided by Planned Parenthood are services that have nothing to do with abortion; they have to do with access to mammograms, to cancer screenings, to STD testing, the whole range of healthcare services that women need.

Unfortunately, the 16-day shutdown in 2013 created havoc across the economy, leading to the loss of an estimated 120,000 jobs. Millions of small businesses faced significant disruptions, many employees were laid off,

and some businesses could not make payroll. But Representative MULVANEY is unrepentant. He insists that the shutdown was worth it. Well, tell that to some of the businesses in New Hampshire that took a huge hit. His brand of government by temper tantrum is reckless, it is irresponsible, and it should not be rewarded with a nomination to be the chief budget officer for the country.

Representative MULVANEY's disdain for true fiscal conservatism and his unbalanced budget priorities should also give us pause. He supports budgets that would provide massive tax cuts for corporations, for those at the top, and he would pair those with deep budget cuts for the middle class and the most vulnerable people in our society, including seniors and people with disabilities.

Representative MULVANEY advocates for radical cuts to Social Security and to Medicare and Medicaid. He has promised to end Medicare as we know it, privatizing it and converting it to a voucher program that shifts costs to seniors.

He advocates raising the retirement age to 70 for Social Security and 67 for Medicare. Imagine telling construction workers and others who perform heavy labor that they have to work until age 70 before they can retire with the security of a Social Security check.

He also advocates shifting costs to States by block-granting Medicaid. Essentially what block grants do is give the money to States and allow them to administer those dollars. As a former Governor, I think States can administer those dollars, but when you want to cut as much as \$1 trillion from healthcare services, which is what MICK MULVANEY wants to do, then you can administer them as well as possible, but you are still not going to be able to make up to the seniors and to disabled Americans and others in nursing homes for the cuts that are going to come when you block-grant those dollars to States.

Unfortunately, that is not the end of his extreme budget ideas. He advocates taking a meat-ax to the whole range of programs that bolster the middle class, everything from cancer research, to Pell grants, to healthcare.

Representative MULVANEY has even questioned the appropriateness of Federal funding for scientific research. In a Facebook post questioning the scientific consensus linking the Zika virus to microcephaly, he wrote: "What might be the best question: Do we really need government funded research at all?" Think about that.

Senator DURBIN was very eloquent in talking about the difference that research has made in ending polio and addressing so many other diseases, such as HIV, that have affected Americans and people across the world. Well, the President's choice—MICK MULVANEY—to draft his annual budget, to be the head of his budget office, openly doubts that the government should be involved in addressing public

health threats, such as Zika. So how deeply does he plan to cut funding for the Centers for Disease Control, for the National Institutes of Health, for our National Laboratories, and for federally funded extramural research? We don't know the answer to that, but we can assume from his statements that it is going to be significant.

Federally funded R&D is critical not only to addressing threats to public health but also to developing new technologies that enhance our national security and protect the environment. These technologies are essential to growing our economy and maintaining America's global leadership in technology and biomedical sciences.

In New Hampshire, the most dynamic sector of our economy is high-tech manufacturing and innovation. For our economy to grow, we need to stay ahead of global competition. But that doesn't happen on its own; it requires sustained investment in basic research—often research that the private sector considers too risky to do on its own.

As ranking member of the Senate Small Business Committee, I have seen this vividly demonstrated by the very successful Small Business Innovation Research Program, or SBIR. SBIR works by harnessing the creativity and ingenuity of America's small businesses to meet the R&D missions of our Federal agencies, while also supporting the growth of small, high-tech companies that create good jobs in local communities across this country.

One recent study found that every dollar awarded by the Air Force to SBIR firms generated \$12 in economic growth. That growth happens because small businesses develop technologies and then commercialize those technologies, creating good jobs in each of our States.

Many of these technologies are developed for our Armed Forces to better protect the homeland. A great example of that, which I have seen firsthand, is a company based in Hanover, NH, called Creare. Creare is working with the Navy to develop an innovative clothes dryer that dramatically reduces the risk of fires on submarines, and that is just one example of why the SBIR Program is the envy of the world.

I want to quote Dr. Charles Wessner, who led the National Academy of Sciences study of the SBIR Program. In describing that program, he said: "The rest of the world thinks this is the greatest thing since sliced bread."

Well, make no mistake, this successful program is in serious jeopardy if Representative MULVANEY puts Federal R&D investments on the chopping block.

It is truly shocking that the President has nominated a budget director who questions the value of Federal funding for R&D. We need to invest in science. We need to invest in our small businesses, which create two out of every three jobs in this economy.

The OMB Director is one of the most senior economic advisers to the Presi-

dent of the United States, with enormous influence on policy matters.

Representative MULVANEY has been a zealous advocate for radical cuts to Social Security, to Medicaid, to the whole range of programs that support the middle class in this country. In addition, his willful failure to pay required Federal taxes has raised serious concerns about his integrity, which we all know is essential for every Cabinet officer.

After careful study of his record, I urge my colleagues on both sides of the aisle to come together to reject this nominee. Putting MICK MULVANEY in charge of OMB is not just letting the fox guard the hen house; it is giving him a gun to kill the chickens, a pot to boil those chickens in, and a knife to eviscerate them when they are done.

Let's give President Trump the opportunity to put forward a qualified candidate with mainstream views to protect the middle class and to honor this Nation's financial obligations.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUL-LIVAN). The Senator from Wisconsin.

Mr. JOHNSON. Mr. President, I rise today to support the nomination of Congressman MICK MULVANEY and ask my colleagues to vote to confirm him as the next Director of the Office of Management and Budget.

It may not surprise folks that I have a markedly different viewpoint than the Senator from New Hampshire. Congressman MULVANEY wants to save Social Security and Medicare. Congressman MULVANEY wants to prevent, stop the mortgaging of our children's future, the bankrupting of America.

One thing on which I do agree with the good Senator from New Hampshire is that we need to concentrate on economic growth. It is the primary component of the solution. But this Nation faces many, many challenges. From the standpoint of foreign policy, take a look at what is happening around the world, the turmoil in so much of the world. We are in a generational struggle against Islamic terror, against ISIS, al-Qaida. Iran—that nuclear agreement was horrible. It modified the behavior for the worse. We have just witnessed North Korea test-fire another missile. Combined with their nuclear capability at some point in time—probably not in the too distant future—they will threaten America. China has been emboldened. Russia has become more aggressive. Why? Because in so many instances, these nations perceive America as weaker than we once were, lacking the strength and resolve to provide the leadership, project our values around the world.

With all these threats that America faces, at the same time our military is being hollowed out. We won't have the resources militarily to fight back if they strike first.

Domestically, we also face many perils, many challenges. ObamaCare didn't work. The Patient Protection and Affordable Care Act did not protect the

patients. It is not affordable. In my State, Wisconsin, premiums on the individual market have doubled and tripled. A young mother working a part-time job so she could stay home with her children had to quit that job to take full-time work to pay her \$8,000 per year increase in premiums. Wages have stagnated for years. Our infrastructure is old and in many cases, crumbling. Our borders are porous. We are not winning the War on Drugs because of porous borders in many respects. Unfortunately, the War on Poverty has also not been won. In many cases, it has created perverse incentives that have trapped generations in a cycle of poverty and dependency and despair. It has resulted in the national debt rapidly approaching \$20 trillion. Again, that is that mortgaging our children's future that Congressman MULVANEY wants to prevent.

As the chart nearby shows, we are on a completely unsustainable path that Congressman MULVANEY also understands must be stopped. If you take a look at this chart, according to the Congressional Budget Office, over the next 30 years, our projected deficit will total \$103 trillion. That would be put on top of that \$20 trillion in debt. It will be \$10 trillion over the next 10 years, \$28 trillion in the second decade, \$66 trillion in the third decade. That is completely unsustainable.

By the way, the components of that \$103 trillion deficit—\$14 trillion in Social Security. In other words, Social Security will pay out \$14 trillion more in benefits than it takes in from the payroll tax over the next 30 years; Medicare, \$34 trillion. The remainder of that \$103 trillion is interest on the debt. If we want to avoid paying creditors more than \$50 trillion in interest on our debt over the next 30 years, we need to address Social Security and Medicare. Congressman MULVANEY wants to do that. He wants to save Social Security and Medicare—not demagogue it; save it.

As the Senator from New Hampshire was pointing out, we need economic growth. That is the No. 1 component of the solution. I don't care what problem I just mentioned above, economic growth is the primary component of the solution.

What is hampering our economy from growing? The fact is, since the Great Depression, our economy has averaged 3.2 percent annual real growth. Since the great recession, we have only been growing about 2 percent. I would argue that there are a number of factors causing that tepid growth: overregulation, an uncompetitive tax system. We are not fully utilizing our energy resources. The Presiding Officer certainly understands that from his State. We are not utilizing our abundant energy resources. And of course there is this: our unsustainable fiscal path, our \$20 trillion in debt.

I oftentimes make the analogy between our national debt and a family in debt over their head. It is just a nation-state; it is just many, many, many



orders of magnitude larger. But the fact is, if you are a family in debt over your head, how can you grow your personal economy? All your disposable income is spent on the basics and servicing the debt. The same thing is true of a nation-state. Again, our enemies perceive that weakness caused by our indebtedness.

So when you take a look at the role of the Director of the Office of Management and Budget, what we need to do to grow our economy comes under his jurisdiction basically. He has to address this deficit. He has to put forward a budget that is sustainable. MICK MULVANEY is dedicated to doing that.

Then, of course, the other thing the Office of Management and Budget is really designed to combat is overregulation. They are all about taking a look at cost-benefit and making sure the regulations that are implemented by this Federal Government are reasonable from a cost-benefit relationship. That has not been the case recently.

Just a couple of examples of how economic growth really is going to help solve this problem. If you go from 2 to 3 percent annual growth, that is \$14 trillion in added economic benefit in just over a decade. If you go from 2 to 4 percent, that is \$29 trillion. And even with the meager economic growth we have had since 2009, revenue to the Federal Government has increased by more than \$1.1 trillion per year with meager economic growth. Just think of what would happen if we could reduce the regulatory burden, have a competitive tax system, and put our Federal Government on a sustainable fiscal path. Revenue would be flowing to the Federal Government, we could stop hollowing out our military, and we could start addressing these threats.

As to the regulatory burden, when we held hearings on this in my committee, the numbers showed that regulatory burden at \$2 trillion per year. Just put that into perspective because I know we are getting immune to these massive numbers: \$2 trillion is larger than all but 10 economies in the entire world. That is a self-imposed, self-inflicted wound on our economy. If you take that \$2 trillion and divide it by the number of households in America, it is \$14,800 per household. No American writes a check to the Federal Government to pay their share of the regulatory burden; instead, they realize that burden in reduced opportunities.

Why are wages stagnated? That is a good part of it—increased prices, and of course, again, those lower wages. It is a massive problem. One Wisconsin paper manufacturer I was talking to—and by the way, I can't tell you who because he fears retaliation by the government, which is a different subject—did a cost calculation of just four recently issued regulations and came up with a total cost of \$12,000 per year per employee. There you go. That is money that could have been available for increasing wages or for investing in busi-

ness to create better opportunities and better paying jobs. The regulatory burden is massive.

I had the chancellor of the University of Wisconsin-Madison come into my office during the last 2 years with the primary complaint—the primary ask—being to reduce that regulatory burden. Last year, she came in armed with a study commissioned by research universities that said that 42 percent of researcher time on Federal grants was spent complying with Federal regulations. Think of the opportunity cost of that overregulation. Those Federal grants are meant to pay for studies and doing research on curing diseases, not filling out Federal paperwork. So again, the Director of the Office of Management and Budget will take a look at those regulations, particularly now under this President, who has issued an Executive order to make sure that for every one regulation issued by a new agency, they have to remove two. That is a very good start. I would have gone with one-in, ten-out, but I will settle for one-in, two-out. I will certainly be supportive of an Office of Management and Budget that understands the incredible burden of overregulation on our economy.

During our committee markup—I heard earlier the Senator from Arkansas, who knows Congressman MULVANEY, served with him in the House, and understands how dedicated and serious Congressman MULVANEY is to stopping this mortgage of our children's future. Senator LANKFORD also had the opportunity to serve 4 years in the House with Representative MULVANEY. This is what Senator LANKFORD had to say about his friend and colleague at the nomination hearing:

You were a serious student. You looked hard at difficult issues. You understood that there were difficult decisions that needed to be made and made proposals to do that.

In testimony before our committee, Congressman MULVANEY told my committee:

When President-elect Trump announced my nomination, he noted that our nation was nearly \$20 trillion in debt and stated that I have the skills and convictions to responsibly manage our nation's finances. I believe that is why he nominated me for this position.

He went on to state:

For the first time in America's history, the next generation could be less prosperous than the generation that preceded it.

That is a very sad possibility. We need to prevent that.

He went on to say:

To me and to the people in this room, that is simply unacceptable. We CAN turn this economy, and this country around . . . but it will take tough decisions today in order to avoid impossible ones tomorrow.

Congressman MULVANEY went on:

I believe, as a matter of principle, that the debt is a problem that must be addressed sooner, rather than later. I also know that fundamental changes are needed in the way Washington spends and taxes if we truly want a healthy economy.

Again, he fully understands the connection between our unsustainable fiscal path, our deficit, our debt, and economic growth. He said we "must include changing our government's long-term fiscal path—which is unsustainable."

Finally, he said:

I recognize that good public service—whether in a state legislature, Congress, or OMB—takes both courage and wisdom. The courage to lead, and the wisdom to listen. I have learned that I do not have a monopoly on good ideas. Facts—and the cogent arguments of others—matter. I will be loyal to the facts and to the American people whom I serve.

My commitment to you today is to take a fact-based approach to get our financial house in order.

This is exactly the type of person—Congressman MICK MULVANEY—somebody who is dedicated to solving these problems, who has the courage and the wisdom to stop mortgaging our children's future, to put America's budget on a sustainable fiscal path, to grow our economy, to make sure that future generations inherit a stronger, more prosperous America.

I am proud to support and I urge all my colleagues to support and vote for the confirmation of Congressman MICK MULVANEY to be the next Director of the Office of Management and Budget.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Thank you, Mr. President. I rise this evening to speak on the nomination of Congressman MICK MULVANEY to be the Director of the Office of Management and Budget. I am going to start by talking in a minute about some of the critical roles that the Office of Management and Budget plays.

Before I do that, I want to go back for a moment to some of the comments of my friend who just preceded me on the floor. Going back 8 years ago, I remember that in the last 6 months of 2008, we lost 2.5 million jobs in this country—2.5 million jobs in 6 months. In the first 6 months of 2009, we lost 2.5 million more new jobs. That is 5 million jobs in 12 months.

Since the beginning of 2010, we have added 16 million jobs in this country. The unemployment rate in this country jumped as high as 10 percent by the end of 2009, and by the beginning of this year the unemployment rate was cut in half. During the first fiscal year of this last administration, the Obama-Biden administration, the deficit, the budget they inherited for that fiscal year ballooned to \$1.4 trillion. I am an old State treasurer, Congressman, Governor, and now Senator. That's a lot of money. We have had in terms of GDP probably higher deficits than that during World War II, but that is a lot of money.

During the last administration, the debt, deficit as we knew it, dropped by about two-thirds, maybe a little more than two-thirds. Do we have a balanced budget coming into this year? No. Is it better than \$1.4 trillion? It sure is.



The unemployment rate was cut by half, the annual deficit has been cut by two-thirds, and instead of losing 5 million jobs as we did in 2008 and 2009, we added 16 million jobs. Could we do better than that? We have. Have we ever had a longer running economic expansion in the history of our country than the last 7 years? I am told we have not. Can we do better? Yes.

Hopefully, in our spending plans and in the regulatory work that we do, we will adopt policies that provide the kind of environment that leads to job creation and job preservation. That is what we do. We don't create jobs here. As my friend who is presiding knows, we help create a nurturing environment for job creation. One of the things we need for that is common-sense regulation.

If you look at the role of the OMB Director, one of those listed on this chart, No. 2, is regulatory process. The regulatory process is the way regulations are created in this Congress, and as the Presiding Officer and others know, it is dictated by legislation called the Administrative Procedure Act.

If the Presiding Officer were an agency that was considering promulgating a rule or regulation, the agency would basically say to the rest of the world: We are thinking of promulgating a regulation on subject x. It is really a heads-up that they are thinking about doing this. It doesn't mean they are going to, but they are thinking about it, so those who might be affected by that regulation, regulation x, would have a chance to say: Hmm, something might be coming our way, and we have an interest in it—or we don't. This gives them a chance to go to the agency and say: We hear you are interested in promulgating a regulation on this particular subject. Let's talk about it. That is why the agency gives a heads-up, so that those who might be affected by it have the opportunity to talk to the agency, come to their elected officials, and share their opinions.

The agency can accept the comments they get or reject them. The Members of Congress can accept or reject them. We can actually arrange for our constituents who might have an interest in a proposed or possible regulation to arrange for meetings to make sure the agency that is thinking about promulgating a new rule or different rule or regulation has an opportunity to meet with those who would be affected positively or negatively.

The agency, armed with that information—the input they receive from filing a notice of rulemaking—if they decide to go forward, they will eventually propose a draft rule. This is not a final rule or regulation, but a draft. They promulgate that draft regulation under the Administrative Procedure Act, and those who are interested in or affected positively or negatively by the draft regulation again have the opportunity to go back and talk to the folks who promulgated that rule or regula-

tion, stating what it is they like or don't like, proposing changes. They look us up—the Representatives, Senators—and say: Here are our concerns. We think this should be strengthened or weakened or taken out or added.

There is a period of time—a comment period—for the draft regulations. Sometimes those who can be affected by the regulations will come to us and say: We don't think we have enough time to fully understand what the effects of this draft regulation would be, and we would like to have more time to comment. Then what we do as elected officials is reach out to the agency and say: We don't have enough time. We are hearing from too many of our constituents that there is not enough time. How about another week or month or some reasonable period of time? Sometimes we get what we ask for, and sometimes we don't. Sometimes we get half of what we ask for, but that is the way it works.

At the end of the day, the agency may decide that they have enough of a bad response—bad vibrations from those who would be affected, as opposed to picking up good vibrations—and the agency may pull the reg entirely and say: We will do this another time but not now. But they might go ahead and change the drafting to prepare to offer the final regulation.

When the agency is ready to report out the drafted regulation, that is not the end of it because that is where OMB comes into play. There is an agency within OMB called OIRA, which refers to an oversight role that the OMB plays. Essentially, as we used to say in the Navy, if a message or something were sent from one level of command to another to another, we actually say we "chopped" it through different levels of command. My colleague who has better experience in the military, as I recall, may have had a similar kind of experience. But the draft regulation that is promulgated has to be chopped through OMB. It has to be chopped through OMB. They have the final say, and they can kick it back to the agency or not.

Changes may or may not be made, but eventually the final reg is published in the Federal Register. There is a period of time that runs, and eventually if folks really don't like it enough they can basically file a suit and go to court to try to block the regulation. We see that happen from time to time. Faced with a suit, the agency might want to pull it back and make some further modifications. We can join in those amicus briefs or not. If all else fails, Harry Reid, who used to be the majority leader, a Democrat, wrote a law a number of years ago, the Congressional Review Act, which allows the Congress, years from now, to take another look and see if it is something—it is not that old, it had regs come out in the last couple of months—and ask: Is this a good idea or not? And if the majority of the House and Senate, with the consent of the

President, say: No, we don't think this regulation is a good idea, it can basically be taken off the field and put on the shelf.

That is the way the process works. Some people don't think that is a very good process. I think it is pretty good. I hope that if MICK MULVANEY is confirmed to this job, this regulatory process is one that will be put to good use.

One of the things Cass Sunstein did, at the direction of President Obama, was begin a look-back policy, saying we are going to look not just forward for new regulations, we are going to look back at the old ones we have and see which ones have maybe outlived their utilization and should be eliminated or modified. I have stopped counting how much money has been saved during the look-back process over the last several years, but it is in the billions of dollars—maybe even in the tens of billions of dollars by now. I hope the next OMB Director will continue it.

We have been joined here by my colleague from Michigan. I would just ask him if he is pressed for time. I will go maybe about another 10 minutes, and then it is all yours.

Another big job of the OMB Director, not surprisingly, is to help the President prepare in submitting a budget. I want to take just a minute and maybe use another chart to talk about how we spend our money. As my colleagues know, the spending is a pie chart kind of like this, and it is divided into maybe four major areas. One of those is—some people call it mandatory spending. I call it entitlement spending: Medicare, Medicaid, Social Security, maybe veterans' benefits. It is spending the people are entitled to by virtue of being a certain age, being disabled, maybe having served in our Nation's military, maybe being disabled in the course of military service, maybe they earned a GI bill. Those are the kinds of things that are being considered as entitlements or mandatory spending. As a percentage of the budget, if we look at the green colors here, it adds up to a little more than half the budget.

Another maybe 5 to 10 percent of the budget is this sort of beige color or gray—this area right here. It is about 5 to 10 percent of the budget. It is debt service, principal interest on our Nation's debt. Fortunately, our interest rates are low. If they ever go up, "Katy, bar the door." Then the principal on the debt service will go up a whole lot. We have been blessed with low interest rates. It will not be that way forever.

So entitlement spending, a little over 50 percent; debt service, principal interest on the debt, 5, 10 percent.

The rest is called discretionary spending. It is defense spending so it is about 40 percent discretionary spending. That is the spending that is done by our Appropriations Committee, about a dozen Appropriations subcommittees, including Agriculture,

Armed Services, Housing, Transportation, you name it.

Over half of the amount of spending that is called discretionary spending, right here in the blue, more than half of that is defense spending and less than half of that is called nondefense discretionary spending.

As it turns out, we could eliminate, I am told, every bit of our nondefense discretionary spending, and we would still have a budget deficit. That would be everything from agriculture to the environment, to transportation, law enforcement, prisons, you name it; the whole kit and caboodle, everything other than defense. I don't think we want to get rid of all that. We might want to find more efficient ways to spend that money. God knows we can find more efficient ways in spending defense money.

One of the ways we can do that is to take a page from something that happened today in the Committee on Homeland Security and Governmental Affairs, and with our governmental affairs hat on, we had the leader of the Government Accountability Office with us. We also had a couple of inspectors general, and we had the head of the Census Bureau. They came to talk with us and present to us something called the GAO—Government Accountability Office—high-risk list. What is a high-risk list? It is a list of programs that are in danger of wasting a lot of money. It could include roughly \$400 billion a year in revenues that we are leaving on the table; owed but not collecting. It could be \$300 billion a year in major weapons systems cost overruns. It could be \$110 billion, \$115 billion a year on something called improper payments, moneys that are paid wrongly, mistakenly—not fraud but just mistaken payments—and it can include a lot of other things. It could be properties that the Federal Government needs to get rid of, and we have done good work on that. Senator PORTMAN and I worked on that, as did Senator Coburn when he was here, and we worked a lot on property reforms. With the help of Senator JOHNSON last Congress, I think we made pretty good progress.

There are a lot of ways we waste money. What we do in the Committee on Homeland Security and Governmental Affairs, with our governmental affairs hat on, is we use the GAO high-risk list as a to-do list to be able to save money. If you have GAO, in concert with the Office of Management and Budget, working together with the inspectors general in every major Federal agency, working with the oversight committees in the Senate, Homeland Security and Governmental Affairs, and with our counterpart oversight committee in the House—if we all are working together, going in the same direction, we can actually figure out how to save a lot of money in defense spending and nondefense. With all the overpayments that occur in Medicare and Medicaid—it is almost \$100

billion just between those two—we could actually make some real progress. Our budget deficit is still too large.

Not that many years ago, when Bill Clinton was President, the last 4 years of that administration, we had 4 years of balanced budgets. We had not had a balanced budget since 1968. Over the last 4 years of the Clinton administration, we had four balanced budgets in a row.

How did we do it? One, we had a good economy, as you all recall. There were more jobs created in those 8 years than any 8 years in the history of the country. I was Governor then, and there were more jobs created in those 8 years in Delaware than any year in the history of our State. I like to say I didn't create one of them, but we tried to create a nurturing environment for job creation and job preservation. One of those ways—one of the elements that is important—is certainty and predictability.

It has been mentioned earlier today that the concern that a number of people have with Congressman MULVANEY as OMB Director is he allegedly has said government shutdowns are not that concerning. I don't know his exact words. One of the things we were reminded of today by GAO is, businesses need predictability, they need certainty, but the other thing they need—what the Federal Government needs and its employees need are some predictability and certainty as well. Stop-and-go government is painful to businesses, but it is especially painful and wasteful for the Federal Government. Continuing resolutions, government shutdowns—our Federal employees spend a lot of time just preparing for shutdowns. That is wasteful, it is demoralizing, and we can't do that.

I think that is—I will stop there. I see the majority leader is here, and I want to be respectful to him. There are other concerns I have that I will submit, but I hope my colleagues will keep these thoughts and these concerns in mind when we consider the nomination of Mr. MULVANEY to head up OMB.

I would say to my friend the majority leader, I appreciate the time we had together in your office earlier this week. I would just ask him to consider one more time, if we had the opportunity for a judge in Oklahoma to make a decision tomorrow on the access to the emails we discussed, I think we could all vote with a clear conscience a week from Monday on the nomination of the Administrator for the EPA. I would encourage the majority leader to do that.

Thank you very much.

The PRESIDING OFFICER. The majority leader.

Mr. McCONNELL. Mr. President, I thank my friend from Delaware for his suggestion and giving me a moment here—I am not sure whether he is finished—but to just ask unanimous consent on a matter.

# ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that following leader remarks on Thursday, February 16, there be 10 minutes of debate, equally divided, prior to the confirmation vote on Executive Calendar No. 16, MICK MULVANEY to be Director of the Office of Management and Budget, followed by up to 10 minutes of debate, equally divided, prior to the cloture vote on Executive Calendar No. 15, the nomination of Scott Pruitt to be Administrator of the Environmental Protection Agency, and if cloture is invoked, time be counted as if invoked at 7 a.m. that day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCONNELL. So for the information of all Senators, under the regular order, the Senate is scheduled to vote on the Pruitt nomination on Friday afternoon. All Members should plan to stay here Friday to complete consideration of the Pruitt nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. PETERS. Mr. President, I rise in opposition to the nomination of Representative MULVANEY to be the Director of the Office of Management and Budget because I have deep concerns about his record.

I believe his far-right views are out of the mainstream and wrong for our Nation and wrong for the people of Michigan.

In part, my vote against his nomination is due to his long-held public belief that we should balance the Federal budget on the backs of seniors and retirees who have worked their entire lives. Representative MULVANEY's policies would mean raising the retirement age, making deep cuts in Medicare, and driving up costs for seniors who already struggle to afford the care they need. These are policy proposals that Mr. MULVANEY would bring to the highest levels of government, if confirmed, and I fundamentally disagree with his approach to budget policy.

While I disagreed with a number of Representative MULVANEY's positions when we served together in the U.S. House of Representatives, I entered his confirmation hearing with an open mind. I thought that in preparing for a role with broad jurisdiction over the Federal Government, he might have developed more nuanced views on some of these difficult issues. However, after speaking with Representative MULVANEY during our recent hearing and reviewing his responses to my colleagues, it is clear he will bring the same extreme views to the administration that he brought to the Congress.

On Social Security, which is absolutely critical to seniors and families across the State of Michigan, Representative MULVANEY has repeatedly called for congressional action to raise the retirement age and reduce benefits. He has publicly called Social Security

a “Ponzi scheme.” When I asked Representative MULVANEY about his views during this hearing, he confirmed to me that raising the retirement age is a central piece of what he calls Social Security reform.

I could not disagree more. Michigan workers have worked their entire lives and have contributed out of their paycheck to the Social Security trust fund. I simply cannot vote for someone who takes pride in telling these Michiganders—construction workers, nurses, autoworkers—that they need to spend another 5 years on their feet after a lifetime of hard work.

Social Security is not a Ponzi scheme, and labeling it as such shows callous indifference to Michigan families. Social Security is one of the most successful programs in our Nation’s history. Confirming Congressman MULVANEY to lead the Office of Management and Budget is a direct threat to the financial security of millions of seniors and retirees.

If you believe Mr. MULVANEY’s proposals on Social Security are wrong-headed, just wait until you hear his views on Medicare. He has vowed to “end Medicare as we know it.” He has said the plans of House Speaker PAUL RYAN, which called for drastic cuts to Medicare, didn’t go far enough.

During the first term of President Reagan, a saying entered into the public discourse as the newly elected President was staffing up his administration: “Personnel is policy.”

While President Trump said on the campaign trail that he opposes changes to Social Security and Medicare, personnel is policy. While the title of the job, “Director of the Office of Management and Budget,” might conjure up images of a bureaucratic backwater for many Americans, make no mistake, we are currently debating who will hold one of the most powerful positions in this new administration—and personnel is policy.

Let’s be clear. Congressman MULVANEY’s nomination presents a direct threat to Medicare and to Social Security. While his positions on these critical programs are enough to warrant my “no” vote, let’s examine how we might address other aspects of the Federal budget.

We don’t need to work at the Office of Management and Budget or be an accountant to know that President Trump’s budget priorities simply do not add up. The Federal debt and deficit are serious issues, but we haven’t seen one serious proposal from this administration on how we reach fiscal sustainability. It is the job of the OMB Director to help bring some sense to these proposals.

What are the proposals? They include \$10 trillion in tax cuts; \$40 billion on a border wall—with some kind of IOU from Mexico; drastically increasing defense spending; \$1 trillion on infrastructure; and a campaign promise to never, ever touch Social Security and Medicare.

It simply doesn’t add up. Either President Trump is planning to grow our debt and deficit to dangerous levels or he is going to ask his advisers which of his many campaign promises he should break. Given Representative MULVANEY’s belief that deficits can be solved by cutting benefits for seniors and slashing investments in basic science and research, he is not the person I want in the position of OMB Director.

This role is also not just about expenditures and revenue. As a senior member of the President’s economic team, you need a steady hand to help lead the government of the world’s largest economy. Given the disarray that we are now seeing in the White House, I am convinced now more than ever that Representative MULVANEY is not that steady hand to help lead fiscal policy in this Nation.

In 2013, Representative MULVANEY supported and helped lead the effort for a government shutdown. Let me repeat: He helped lead the effort to shut down the U.S. Government. More specifically, he helped lead the effort to shut down the government because the Senate would not agree to defund Planned Parenthood.

In his confirmation hearing, he had a chance to explain this position. Our ranking member, Senator MCCASKILL, asked him flat out: Do you still believe that the 2013 government shutdown was good policy?

His response: Yes, ma’am. It was polite, but wrong. Polite isn’t enough. We simply cannot have these views in the highest levels of government.

This spring, on April 28, funding for the Federal government expires. Critical programs, from childcare to scientific research, will halt unless there is an agreement in place. It is hard to have confidence that this administration will come to a reasonable agreement when their nominee for the highest budget position believes it is “good policy” to shut down the Federal Government.

This will not be the first, or last, potential budgetary crisis the OMB Director could face. Sometime this summer, the U.S. Congress will need to address the debt ceiling in order to meet our previously agreed-to financial obligations. If we do not come to an agreement, the effects on the global economy will be devastating. We risk permanently downgrading our credit rating and setting off a worldwide financial crisis.

Representative MULVANEY on many occasions has doubted the need to raise the debt ceiling. He has doubted that the U.S. Government should meet our financial obligations. This makes me doubt his very basic qualifications to serve as the Director of OMB.

This is far beyond partisan politics. This is the fiscal health of our Nation that will be at stake—truly, the full faith and credit of the U.S. Government. If Congressman MULVANEY, as the highest ranking budget official in

the Nation, is not going to advocate on behalf of this commitment, who will?

I am also worried that Congressman MULVANEY simply lacks the ability to see how fiscal and financial decisions impact working people. He looks past them and doesn’t give them a second thought. During his confirmation hearing, I offered Mr. MULVANEY the chance to explain why he did not pay payroll taxes for the nanny who took care of his children. To be frank, I was shocked by his response. To him, there was a “differentiation,” in his mind, between the employee who was spending 40 hours a week helping to raise his triplets and the employees who spent 40 hours a week in his law firm. To him, the white collar workers in his law firm were employees, and his nanny was not. I am shocked that Mr. MULVANEY did not realize that childcare is work, and it is some of the hardest, most important work there is. Whether a nanny, babysitter, or childcare provider, this employee mattered, and he looked past her and didn’t give her a second thought—until he was nominated to be Director of the Office of Management and Budget.

I don’t believe my colleagues should give him the opportunity to advance his extreme positions on Medicare and Social Security and look past hard-working Michiganders. I will oppose Representative MULVANEY’s nomination, and I urge my colleagues to join me.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Georgia.

#### THE ECONOMY

Mr. PERDUE. Mr. President, I rise tonight to speak about the opportunity our country has to move this country forward.

I appreciate the comments by my good friend from Michigan. I appreciate all the comments in this hallowed ground called the U.S. Senate. But I have to say that while I agree on some points, I disagree on others.

The one I am really troubled by tonight is the fact the other side is creating the ultimate shutdown in government right now. We had an election. Our democracy has worked. We have a new person in the White House. We have a new direction for our country. Yet this person in the White House cannot even get his team approved in the U.S. Senate.

After some 27 days, I think President Obama had 26 of his Cabinet and other appointees already confirmed. At this point, President Trump has only 13 of his nominees. Quite frankly, had we not turned the Senate on 24/7 over the last few weeks, it would be until June or July of this year before we could get the full slate of just the 15 Cabinet officers confirmed. That is no way to run the Federal Government and, indeed, shows the hypocrisy of the other side. They complain about shut down this and shut down that. What is happening right now in the U.S. Senate is that the

other side is shutting down this administration from getting on with the people's business of what they elected him to do.

Today, after 8 years of failed fiscal policies that have produced the weakest recovery in 70 years, the lowest GDP growth on a per capita basis in our history, a devastating time that left 4 million women in poverty after the last 8 years and left many people struggling to get from payday to payday—after those 8 years, tonight I am actually very encouraged to finally be debating pro-growth tax ideas that can actually grow the economy and put people back to work. We now have an enormous moment of opportunity to change the direction of our country and unleash a new era of economic growth and prosperity for every American.

President Trump has repeatedly said that job one is growing the economy. Personally, having worked in most parts of the world in my career, I see this so differently from Washington. My perspective is that of someone who has a global business perspective, not unlike that of our President. I know the way forward is not complicated. We absolutely can grow this economy.

There are three things this administration is already talking about to grow the economy: One, they have said we need to deal with this archaic, outdated, and noncompetitive tax structure that we have; second, we need to push back on these arcane regulations that have sucked the very life out of our economy; third, we need to unleash the God-given energy potential that we have in our country today. The bottom line is we have to create a more level playing field generated by trade negotiations to allow us to compete on a level playing field with the rest of the world.

The first two pieces of these changes are the changes to the Tax Code and rolling back the regulatory regime. Several ideas from both President Trump and Congress have surfaced in recent days to improve our Tax Code: No. 1, lowering individual rates and cleaning up some of the deductions to simplify the individual code; No. 2, lowering the corporate tax rate to become more competitive with the rest of the world and cleaning up corporate welfare deductions that confuse the competition among players here at home and create winners and losers inadvertently; and, No. 3, dealing with the archaic repatriation tax. We are the last country in the world that has this tax, and it penalizes our companies for competing abroad.

These three components of changing the Tax Code will make us more competitive with the rest of the world, stimulate economic investment, and spawn a new era of economic innovation in America. These changes would help millions of Americans who have been crushed by this stagnant economy for much too long.

I am encouraged that today there are so many of my colleagues in Congress

interested in generating new pro-growth ideas. It is a new day in Washington.

I have long been an advocate of simplifying the way we fund our Federal Government. In my opinion, the best way to do that is ideally with a new system, like the fair tax, for example, which would move us to a totally new tax system and completely eliminate the personal, corporate, and payroll taxes we suffer through to date. I think all of these ideas need to be considered, and none should be taken off the table arbitrarily.

Having said that, one idea bears much scrutiny at this point in time, and that is the so-called border adjustment tax now being discussed in Congress. It would hammer consumers, shut down economic growth, and ultimately grow the size of government.

In the last 16 years, under both Republican and Democratic Presidents, the Federal Government has grown from \$2.4 trillion in constant dollars to \$3.8 trillion last year—some 60 percent growth in just two Presidencies, one Republican and one Democrat.

Tax schemes similar to the border adjustment tax in Europe grew the size of those governments in Europe by more than 60 percent. That is the last thing we need to be talking about right now, after we just experienced a similar type of growth in our government over the last 16 years. Growing government with a new layer of complexity on top of our existing income tax system is the last thing we need to be doing at this point in time, when we should be talking about, How do we downsize the Federal Government, make our system more competitive with the rest of the world, create jobs, and create the atmosphere for capital formation and innovation again?

Historically, lawmakers have crammed numerous proposals into single, massive, overreaching bills. It is the Washington way. Those bills have often hurt the very people that they claim to champion. When bad ideas get mixed with good ideas, the bad ideas oftentimes become law. That is exactly what could happen here if changes to the individual code, the corporate rate, the repatriation tax, and this border adjustment tax are combined into one sweeping bill. This is exactly what Washington has historically done, and the results have been devastating.

Each of these proposals could be considered independently and evaluated on their own merits. There is no reason we can't do that. That is not possible today because many people here believe we are locked into the Washington scoring equation instead of looking at the real economic long term value of any of these ideas.

Many other countries, such as the United Kingdom, have faced these opportunities, made decisions, and acted accordingly without combining other extraneous ideas, and the results speak for themselves. Today, the United States is in the least competitive posi-

tion it has been, I believe, in the last 100 years.

In the last 70 years, America has enjoyed the greatest economic miracle in the history of mankind. It was developed on the back of innovation, capital formation, and the rule of law, combined with the best workforce in the history of the world. Those are four things that America possesses uniquely, and which many other countries are working hard to emulate.

For too long, the strength of our economy has been held down by politicians in Washington and the unintended consequences that occur when they try to interfere with the free enterprise system. It is time to trust that free enterprise system to get this economy going again, and change the rules to create a more competitive environment here at home that will allow us to compete overseas on a level playing field. It is time to simplify our individual Tax Code, reduce our corporate tax rates, eliminate conflicting business tax deductions, and eliminate the repatriation tax so we can once again become competitive with the rest of the world.

In recent decades, many other countries have made these changes, and we are losing our competitive edge. Today, I am encouraged to see both Congress and the White House working together on policies that will potentially grow our economy and bring relief to businesses and families who have been crushed by improper fiscal policies that are driven by political attempts to manage our economy.

Now is exactly the time to get these changes right. We have an opportunity to change our Tax Code to a more competitive structure that doesn't pick winners and losers, that doesn't penalize people for successes, and that allows us to compete with the rest of the world on a level playing field.

I like our chances if we can accomplish that, but let's not confuse the issue with what may seem acceptable in Washington but is devastating back home to men and women who are trying to create jobs in their local economies.

We need to free up capital. We need to make sure the rule of law supports the Constitution for every American. The American people deserve Congress treating these issues individually and independently to generate a simplified approach to funding our government and growing our economy.

I hear the other side whine about not hearing any proposals coming out of the White House. Donald Trump has been talking about what he would do with the economy for the past 2 years. There is no mystery. He wants to grow the economy. Job one, he said, is growing the economy. That doesn't mean for the rich. That means for the working men and women of America.

I believe they have a plan. It includes adjusting our tax system, pushing back on unnecessary regulations that are sucking the very life out of our economy and, finally, once and for all,

unleashing this great energy potential that we have.

We already see moves today on some of the regulatory fronts, where we see the new Secretary of HHS issuing a new rule today. We see the new leaders that have been confirmed already taking action in this administration. I, for one, am anxious to move forward with this debate.

I applaud our compatriots in the House for bringing up these ideas. I look forward to an open and active conversation, but now is the time for the other side to begin confirming these nominees so that we can get this economy growing.

I know you also are aware that our military is in devastating shape now after 8 years of disinvestment and 15 years of war. There is enough blame to go around here. This is not about the blame game. This is about getting this economic situation right where we can fund our military so we can defend our country.

I am very concerned that the other side is putting politics in the way of solving some of these problems that we have that are so devastating to men and women who are disenfranchised in our economy and our men and women in uniform around the world who are put in danger every day because we are not funding our military the way we should.

The time for rhetoric has passed. We are already past the tipping point of the most serious, I believe, physical crisis in our history. This debt crisis is very real. We don't need to grow the economy just to grow the economy. We have to grow the economy because it is one of several steps that are absolutely mandatory to solving this debt crisis, and we will not and cannot solve our national security crisis unless and until we solve this debt crisis. I am optimistic tonight because we are beginning to talk about these very issues.

I yield my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

#### TRIBUTE TO MONA PAINTER

Mr. SULLIVAN. Mr. President, in the past month, I have come to the floor to recognize Alaskans who have generously devoted their time and talents to our State and made it a better place for all of us to live in. It is a great place to live. There is a mystique surrounding my great State—a well-earned mystique. People travel to Alaska from all over the world to discover a part of themselves that craves high peaks, beautiful mountains, streams, and swaths of wilderness.

The real wonders of Alaska are our people—kind and generous people,

many of whom have etched warm homes and welcoming communities out of wilderness. One of those people who has helped make my State truly extraordinary is Mona Painter, our Alaskan of the Week.

Mona, who will be 80 years old soon, first visited Alaska when she was just 11 in 1949. She flew, by herself, with others in a tiny four-engine passenger plane to visit relatives. In the 1950s, she moved to Alaska for good and eventually settled in Cooper Landing. Cooper Landing has about 350 year-round residents, but that number swells in the summer. It has some of the best fishing and rafting anywhere in the world—an astonishingly beautiful place.

It has people like Mona, a devoted wife, grandmother, great-grandmother, and someone, who according to one fellow resident, is “the glue that binds the community of Cooper Landing together.”

She has done so much for this community—volunteering countless hours over the decades to ensure community cohesion in the schools, churches, and various clubs, including the Cooper Landing Community Hall, which serves as the community's unofficial city council.

Since living in Cooper Landing, Mona received an art degree, has taken anthropology classes, and even took a taxidermy class—once practicing her skills on a moose left on the side of the highway.

One of Mona's passions throughout the years has been to keep history alive in Cooper Landing. To that end, she started the Cooper Landing Historical Society and Museum, with which she is still very involved. For years she has devoted her time and energy to collecting bits of history about Cooper Landing and sharing that history with her neighbors, with residents, and with all Alaskans. She is also the founding member of the Kenai Communities Association and helped to spearhead the effort to create a national heritage area in that part of our State.

One of her friends said about her: “The whole essence of her life has been to make this community a better place to live and to restore the history of the community.”

People like Mona make my State great, and I want to thank Mona for all she has done for Alaska, and thanks for being our Alaskan of the Week.

#### TRIBUTE TO DELYNN HENRY

Mr. President, I want to talk about another Alaskan. She is a great Alaskan, an honorary Alaskan, but to all those who know her, a real Alaskan. So many people in my State know her. So many people in my State love her. I am talking about DeLynn Henry.

When I got elected in 2014, I was looking for important members of my office to staff my office. As we all know on the Senate floor, the scheduler is probably the most important position. I asked around, and the unanimous response was to hire DeLynn Henry. That

is what everybody told me. In Alaska, in DC, hire DeLynn Henry. She is a legend. She will make everybody feel at home.

DeLynn had been the scheduler for former Senator Ted Stevens, a titan of the Senate since 1989. For the past two decades, she has met thousands of Alaskans. She has done the vitally important work of making sure that when Alaskans come to DC—to our embassy here, the Alaskan embassy—they feel welcome, they get to meet with their Senator.

To many of us, including my wife Julie, DeLynn is like family. Her job, which she takes very seriously, is something she has done extraordinarily well—for me and for Senator Stevens—for decades. She is personal and kind. She does everything she can do to make sure that Alaskans feel welcome, part of our family, and feel at home. She has also raised two fine sons, Blake and Graham, and will soon be a doting grandmother.

DeLynn has accepted a job as the scheduling coordinator for our new Secretary of Transportation. I am sad and happy for that. She will be leaving my office. She will be leaving a big hole in my office. We, and so many Alaskans, will miss her dearly, but we know she will be serving Secretary Chao's office with the same warmth and welcoming attitude she has served Alaskans for nearly 25 years.

Thank you, DeLynn, for your years of service to Alaskans. You will always, always have a home with us.

Mr. President, I rise in support of Congressman MULVANEY's confirmation to be OMB Director for many of the reasons that a number of my colleagues have come to the floor and mentioned. The Presiding Officer just talked about some of those reasons. My colleague and friend from Wisconsin did a few minutes ago, also. Those are two issues that don't get talked about enough here and, certainly, weren't talked about enough in the last 8 years; that is, economic growth and the overregulation of our economy.

Again, it wasn't talked about a lot, but we had a lost decade of economic growth. The end of the Bush years and the entire Obama years never hit 3 percent GDP growth in 1 year—never. That is the first President in the history of the country not to do that.

For thousands, millions of Americans the American dream was starting to disappear because nobody focused on the issue of growth. I think in November the American people voted and said: We are not going to give up on the American dream. We want growth. We want opportunity. Why did we have that lost decade of growth where the economy grew at an anemic 1.5-percent GDP growth each quarter?

I think this chart shows a lot of the reasons right here—the explosion of Federal regulations that have literally choked opportunity and economic growth in our country. Year after year—Democrat or Republican—this is

what we see. This regulatory overreach impacts all kinds of Americans, mostly small businesses. This is a big reason why this economy has been stuck in first gear.

When I had my discussions with Congressman MULVANEY, we focused on this issue of growth, and we focused on this issue of overregulation. We haven't had an OMB Director in years who is focused like a laser on growth, like a laser on making sure we don't overburden our economy the way the Federal Government has done for decades. That is exactly what we need right now. We need growth. We need opportunity for Americans. We need the Federal Government to be a partner in opportunity, not an obstacle, as it is in so many States.

For these reasons and because I believe the next OMB Director is going to be focused on these issues—opportunity for Americans and growth for our economy, which sorely needs it—I plan on voting for the confirmation of Congressman MULVANEY, and I encourage my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, as the ranking member of the Budget Committee, I rise in strong opposition to the nomination of Congressman MICK MULVANEY to be the next Director of the Office of Management and Budget, or OMB.

Like many of President Trump's other nominees, my opposition to Congressman MULVANEY has less to do with his extreme rightwing economic views than it has to do with the hypocrisy and the dishonesty of President Trump. The simple truth is that Congressman MULVANEY's record, in many respects, is the exact opposite of the rhetoric that then-Candidate Trump used in order to get votes from senior citizens and working families. Now, if Candidate Trump had run his campaign by saying: I am going to cut your Social Security benefits if elected President, well, you know what, Congressman MULVANEY would have been the exact person that he should bring forth as OMB Director. If President Trump had said: I am going to privatize your Medicare; vote for me because I am going to privatize your Medicare—if that is what he had campaigned on, then Congressman MULVANEY would have been exactly the right choice for OMB Director. If Candidate Trump had said: I want to devastate Medicare, I want to make it harder for poor people to get the healthcare they need, and I want to threaten the nursing home care of millions of senior citizens—if that is what Candidate Trump had said, MICK MULVANEY would have been exactly the right and appropriate leader for the job.

But those are not the words, that is not the rhetoric, and those are not the ideas that Candidate Trump raised during his Presidential race. In fact, Candidate Trump said exactly the opposite

on May 7, 2015. We are all familiar with Mr. Trump's tweets. Here is a tweet that he made on May 7, 2015:

I was the first and only potential GOP candidate to state there will be no cuts to Social Security, Medicare and Medicaid. Huckabee copied me.

So you have Candidate Trump making it very clear that there would be no cuts to Social Security, Medicare, and Medicaid.

On August 10, 2015, Trump said:

[I will] save Medicare, Medicaid and Social Security without cuts. [We] have to do it. . . . People have been paying in for years, and now many of these candidates want to cut it.

On November 3, 2015, Mr. Trump said:

I will save Social Security. I'll save Medicare. . . . People love Medicare. . . . I'm not going to cut it.

On March 10, 2016, Mr. Trump said:

I will do everything within my power not to touch Social Security, to leave it the way it is. . . . it's my absolute intention to leave Social Security the way it is. Not increase the age and to leave it as is.

It is my absolute intention to leave Social Security the way it is. Not increase the age and to leave it as is.

It can't be much clearer than that.

On May 21, 2015, Mr. Trump tweeted:

I am going to save Social Security without any cuts. I know where to get the money from. Nobody else does.

On January 24, 2015, Mr. Trump said:

I'm not a cutter. I will probably be the only Republican that doesn't want to cut Social Security.

Those are pretty strong statements. What he just told you, in no uncertain terms, can't be clearer than that. He doesn't want to cut Social Security. He doesn't want to cut Medicare and doesn't want to cut Medicaid. And you know what, millions of people actually believed what he said. They actually thought that Candidate Trump was telling the truth.

But now that the election is over, President Trump has nominated a budget director, Mr. MULVANEY, who would cut Social Security, would cut Medicare, would cut Medicaid, and would threaten the entire security of millions of Americans.

We just heard the exact quotes coming from candidate Donald Trump. Let's now hear the exact quotes coming from Congressman MICK MULVANEY about his views on these very same issues.

On May 15, 2011, Congressman MULVANEY said on FOX Business News: We have to end Medicare as we know it.

On April 28, 2011, Congressman MULVANEY said:

Medicare as it exists today is finished.

On August 1, 2011, Congressman MULVANEY said:

You have to raise the retirement age, lower a pay-out, change the reimbursement system. You simply cannot leave [Social Security] the way it is.

On May 17, 2011, Congressman MULVANEY said: "I honestly don't think we went far enough with the Ryan plan" because it did not cut So-

cial Security and Medicare "rapidly enough."

Just 2 years ago, Congressman MULVANEY voted against the budget proposed by House Budget Committee Chairman Tom Price and House Speaker PAUL RYAN, opting instead to vote in favor of an even more extreme budget by the Republican Study Committee. The budget that Congressman MULVANEY supported would have cut Medicare by \$69 billion more than the Price-Ryan budget. It would have cut Social Security by \$184 billion more, and it would have cut Medicaid by \$255 billion more than the budget proposed by Chairman Price and House Speaker RYAN.

In fact, Congressman MULVANEY made it clear during his confirmation hearing in the Budget Committee that he would advise President Trump to break his promises not to cut Social Security, Medicare, and Medicaid. During that hearing, Senator CORKER called President Trump's campaign promises "totally unrealistic" and said that they "make no sense whatsoever."

When Senator CORKER asked Congressman MULVANEY if he would advise the President not to follow through on the campaign promises he made to seniors, this is what Congressman MULVANEY said:

I have to imagine that the President knew what he was getting when he asked me to fill this role. . . . I'd like to think it is why he hired me.

Whoa, what we have been discussing is precisely why so many people have contempt for what goes on here in Congress and what goes on in Washington, in general. What is going on here is that a candidate for President of the United States says one thing in order to get votes, but the day after he is elected, his tune dramatically changes, and he nominates a number of people to his Cabinet and to high-level positions within his administration who intend to do exactly the opposite of what he campaigned on. Once again, Congressman MULVANEY—and I believe he is exactly right—said:

I have to imagine that the President knew what he was getting when he asked me to fill this role. . . . I'd like to think it is why he hired me.

So the President hires somebody who has been one of the most vigorous proponents of cutting Social Security, cutting Medicare, and of cutting Medicaid after he ran his entire campaign telling the American people he would not cut Social Security, cut Medicare, and cut Medicaid.

Outside of Capitol Hill, where real people live, it turns out, not surprisingly, that the overwhelming majority of Americans—be they Democrats, Republicans, or Independents—are opposed to cutting Social Security. In fact, according to an October 2016 survey by Public Policy Polling, 72 percent of the American people, including 51 percent of Republicans, "support increasing, not cutting, Social Security benefits by asking millionaires and billionaires to pay more into the system."



As it happens, that is exactly the heart and soul of the legislation that I will soon be offering. Legislation that I will be offering will expand Social Security benefits, not cut them. It will do so by asking the top 2 percent to pay more in taxes, which, it turns out, is not only the right thing to do, but it is precisely what the American people want us to do. Various other polls have reached similar results. The people of our country—once you get outside the Congress and outside of the Republican caucus, in particular—the American people know that when millions of seniors, disabled veterans, and people with disabilities are trying to get by on \$13, \$14, \$15,000 a year, you do not cut their benefits, while at the same time give hundreds of billions of dollars in tax breaks to the top 1 percent. That is not what the American people want.

In my view, we don't need a budget director like Congressman MULVANEY, who believes that Social Security is a "Ponzi scheme." We don't need a budget director who once voted to declare Social Security, Medicaid, and the U.S. Department of Education unconstitutional. He was in, I believe, the South Carolina State Legislature, State Senate. He actually voted on a vote—which got very few votes—in the South Carolina State Senate. He voted to declare Social Security, Medicaid, and the U.S. Department of Education unconstitutional. This is the person whom President Trump has nominated to become the head of OMB.

So if you believe Social Security is unconstitutional, if you believe it is a good idea to cut benefits for people who will be living on \$13,000 or \$14,000 a year, I guess Mr. MULVANEY is your choice. If that is whom my Republican colleagues want to vote for, that is their business, but my job and the job of everybody is to make it clear to the American people that the Republicans are far more interested in cutting Social Security and in giving huge tax breaks to billionaires than they are in taking care of the needs of the American people.

We need a budget director who understands that we have a retirement crisis in America today. Today, more than half of older Americans have no retirement savings. That is just an extraordinary reality. Over half of older workers in this country have zero in the bank. Think about what they are feeling when they hear people like Congressman MULVANEY saying: Hey, you got nothing now. You are going to try to get by on \$12,000, \$13,000 a year in Social Security, and we are going to cut those benefits.

Today, more than half of older Americans have no retirement savings. More than one-third of senior citizens depend on Social Security for all of their income. One out of five senior citizens is trying to make ends meet on income of less than \$13,000 a year. I will tell you, I hope people are able to sleep well, people who think it is appropriate to give tax breaks to billionaires and cut

benefits for people who are trying to get by on Social Security checks of \$13,000 a year.

In my view, we don't need a budget director who believes that "we have to end Medicare as we know it," nor do we need a budget director who has said that "Medicare as it exists today is finished." Let's remember for a moment what things were like before Medicare was signed into law back in 1965. At that point, about half of all seniors were uninsured and millions more were underinsured. Today, thanks to Medicare, about 45 million seniors have health insurance, and the senior poverty rate has plummeted. Seniors are living healthier, longer lives. Thank you, Medicare.

In my view, we do not need a budget director who supports cutting Medicaid by more than \$1 trillion, threatening not only the healthcare of low-income people but also the nursing home care of millions of vulnerable senior citizens and persons with disabilities. There are millions of not just low-income families but middle-class families who today are getting help with the nursing home payments for their parents through Medicaid. If you make devastating cuts in Medicaid, you are not only going to take away health insurance from low-income Americans, you are going to put enormous economic stress on middle-class families who will now have to pay the full tab for the nursing home care of their parents.

Finally, there is another issue; that is, Mr. MULVANEY's taxes. After Congressman MULVANEY was nominated to become the next OMB Director, it was revealed that he failed to pay over \$15,000 in taxes for a nanny he employed from the year 2000 through 2004. Here is what Congressman MULVANEY wrote in response to a question I asked him on January 11:

I have come to learn during the confirmation review process that I failed to pay FICA and Federal and State unemployment taxes on a household employee for the years 2000 through 2004. Upon discovery of that shortfall, I paid the Federal taxes. The amount in question for Federal FICA and unemployment was \$15,583.60, exclusive of penalties and interest which are not yet determined. The State amounts are not yet determined.

This is a very serious issue. As you will recall, 8 years ago Senator Tom Daschle withdrew his nomination as Secretary of Health and Human Services after it was discovered that he failed to pay taxes for one of his domestic workers.

On this issue, I agree wholeheartedly with Minority Leader Schumer, who said:

When other previous Cabinet nominees failed to pay their fair share in taxes, Senate Republicans forced those nominees to withdraw from consideration. If failure to pay taxes was disqualifying for Democratic nominees, then the same should be true for Republican nominees.

Mr. President, here is the irony: Over and over again, Congressman MULVANEY has sponsored and cosponsored legislation designed to prohibit

people from serving in the government if they fail to pay their taxes. In 2015, Congressman MULVANEY voted for a bill in the House that stated: "Any individual who has a seriously delinquent tax debt should be ineligible to be appointed or to continue serving as an employee" of the Federal Government. Congressman MULVANEY cosponsored three bills when he was in the South Carolina State Senate that would have prohibited tax cheats from serving in the South Carolina State government. In other words, it looks like there is one set of rules for Congressman MULVANEY and another set of rules for everyone else.

In light of this information and in light of Congressman MULVANEY's extreme rightwing record of attacking the needs of the elderly, the children, the sick, and the poor, I would urge all of my colleagues to vote no on this nomination.

With that, I yield the floor.

Mr. UDALL. Mr. President, I wish to oppose the confirmation of Congressman MICK MULVANEY as Director of the Office of Management and Budget. I respect Mr. MULVANEY's public service representing the people of South Carolina, who elected him to serve in the State legislature and in Congress. However, the question before us today is whether the Senate should confirm him to one of the most important economic positions in our government—a position that has major ramifications for global financial markets, the United States and New Mexico economies, and the jobs, health care, and retirement security of every American.

Unfortunately, Representative MULVANEY's record shows a shocking willingness to put at risk the security of the public debt of the Nation and endanger essential Federal programs that New Mexicans depend upon. I want to underscore a few of Representative MULVANEY's previous statements made as a Member of Congress.

First, he has supported playing chicken with the debt ceiling over partisan political issues, an action that would jeopardize the U.S. Government's ability to repay the public debt. If the debt ceiling is not raised, Federal officials have said that the revenue coming into the government would not be enough to cover its obligations—potentially disrupting Social Security, Medicare, Medicaid, veterans benefits, military payments, student loan payments, and many other government services.

Despite these clear dangers, Representative MULVANEY voted no on raising the debt ceiling every time it came up for a vote in 2011, 2012, and 2013. He claimed that risking disruption to Social Security and veterans benefits was "a fabricated crisis." He went so far as to question the majority leader, claiming that, if the Senate chose to raise the debt ceiling, the majority leader "should just quit and go home." I, for one, will be here to defend the full faith and credit of the United

States' public debt and protect essential government services that our sick, our elderly, and our veterans depend upon.

Putting someone with such strongly held and reckless views into power at the OMB is an endorsement of policies that could cause another global financial crisis—devastating millions of American families. I cannot in good conscience support his nomination for this reason alone.

Second, Representative MULVANEY is a founding member of the group of extreme House Republicans who forced the government to shut down in October 2013 over their blind opposition to the Affordable Care Act. In New Mexico, the impacts of the shutdown were felt immediately as our civilian employees were sent home from military installations, national parks and forests were closed to tourists, and countless other services were halted. The shutdown lasted over two weeks, and Representative MULVANEY and other members of his extreme wing of the House could have ended the shutdown at any time.

Representative MULVANEY claims that he opposes wasteful government spending, but an analysis by Standard and Poor's found that the October 2013 government shutdown cost \$24 billion—\$24 billion with nothing to show for it. Even Representative MULVANEY admitted that his shutdown hurt people. On October 16, 2013, he told CNN, "Were people hurt by this? Sure." He admitted that, if you were one of the millions of people who relied on the shuttered services, his shutdown hurt you, but Representative MULVANEY showed little remorse. I stand by what I said at the time. Insisting on blind cuts or a government shutdown to prove a point isn't leadership.

Third and finally, Representative MULVANEY is on record advocating enormous cuts to Medicare, and he is a proponent of Speaker RYAN's preferred voucher concept for Medicare. He also has long been hostile to Social Security and voted in the South Carolina State Senate to declare Social Security, along with Medicaid and the Department of Education, unconstitutional.

Workers earn their Social Security benefits through a lifetime of paying into the Social Security system. And it is unfair to delay or cut the benefits they have paid into. Raising the retirement age to 70, as Representative MULVANEY has advocated, would cut benefits by nearly 20 percent for all beneficiaries. Raising the retirement age would be hardest for those New Mexicans who work in jobs that require heavy manual labor, which becomes harder to do as we age. With all the challenges people have saving for retirement, especially as New Mexico continues to struggle to recover, the last thing we should do is raise the Social Security retirement age.

In conclusion, Representative MULVANEY has demonstrated that he

has no reservations about using a government shutdown or the public debt as bargaining chips. He has stated that he will push to eliminate Social Security for people under 70. He will slash Federal consumer protections and cut support for small businesses, labor rights, financial oversight, community health, and environmental protection. I have heard from many people and groups—a broad coalition of consumer, small business, labor, good government, financial protection, community, health, environmental, civil rights, and public interest organizations—who oppose the nomination. I stand with them. I strongly oppose Representative MULVANEY's nomination to be Director of the Office of Management and Budget and urge my colleagues to do so as well.

Mr. SANDERS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MERKLEY. Mr. President, here we are on another evening, debating another Cabinet nominee, addressing the question that Hamilton put before us, which is whether an individual is of fit character to serve in a particular post. This effort, this advice and consent responsibility held by the Senate, is one that was anticipated by our Founders to be used rarely because the very existence of this power, they felt, would ensure that a President would nominate people who are appropriately suited to the post they would hold. So I do find it troubling the number of times I have come to the floor in these last few weeks to speak about a nominee and consider whether they are fit and to find that perhaps the individual is lacking.

Tonight we are considering the nomination of Congressman MICK MULVANEY to head the Office of Management and Budget. This is a powerful organization, and it is a very important position. It plays a critical role in the oversight and management of our Federal budget. It plays a critical role in determining what gets funded and what doesn't get funded. So with that in mind, it is important that we have a robust debate about this position and about this nominee.

To break that down a little bit, the Office of Management and Budget puts together the budget for the President. In doing so, they take the vision our President has articulated, and they build it into a roadmap to accomplish that vision because where you spend money affects what actually happens as we pursue programs here in the United States of America.

It is the Director of the OMB who works to make sure the various pieces of the Federal Government are working

together like gears that mesh cleanly together and do not conflict. It is the Director of the OMB who helps to determine the cost of proposed legislation, which can advance or doom any particular proposal. It is the position of the OMB Director to review the impact of proposed regulations, and that can also have a significant impact.

I come to this conversation with a number of concerns, and the first is the position of the nominee on Social Security. For 82 years, Social Security has provided for the American people, and it has helped our Nation prosper.

On the third anniversary of the Social Security Act, in 1938, Franklin Roosevelt pointed out: "Men and women too old and infirm to work either depended on those who had but little to share, or spent their remaining years within the walls of a poorhouse."

That is not the vision we have today. Thanks to Social Security, our seniors have a basic income to see them through their golden years. They can live out their lives in relative comfort and security, rather than, as Franklin Roosevelt put it, "within the walls of a poorhouse."

In 2016, roughly 61 million Americans received over \$900 billion in Social Security benefits. That is a huge injection into our economy, and it is spent almost immediately on fundamental goods. Nearly 9 out of 10 Americans older than 65 receive Social Security benefits, and for one-quarter of our Social Security beneficiaries, including both those who are single and those who are married, Social Security accounts for virtually their entire income. That would be many millions—more than 15 million Americans who would definitely be struggling in the most difficult fashion financially if Social Security didn't exist.

Retired workers and their dependents account for about 71 percent of the benefits paid. Funds also go to disabled workers. Disabled workers and their dependents account for about 16 percent of the benefits. Survivors of deceased workers account for another 13 percent or roughly one-eighth of the benefits paid.

Simply put, Social Security assists our retired workers, our disabled workers, and the survivors of our deceased workers. It is one of the best ideas America has ever put forward, but Congressman MULVANEY doesn't agree. He sees Social Security as a Ponzi scheme. Let me explain what a Ponzi scheme is. A Ponzi scheme is something where the incoming amount raised immediately pays for the benefits of somebody who paid in money previously.

We actually have a Social Security trust fund, which is the difference between MICK MULVANEY's description of Social Security and what we actually have. If we made no changes, no changes at all to increase the lifetime of the trust fund, it would continue to be able to pay 100 percent of the benefits through 2034 and roughly three-

quarters of all benefits currently promised ever after. That is if we make no changes.

If we make small changes, our Social Security trust fund is solvent for decades and decades into the future. Certainly, I think we should aspire to that vision of a trust fund that has a 75-year horizon, a full solvency.

The issue that Congressman MULVANEY raises, the idea he raises for changing how we adjust Social Security, however, isn't one of increasing the amount of wages that are subject to Social Security tax; it is not one of putting premiums on the income earned through nonwages, which is primarily income raised by wealthier Americans. Instead, it is to say to folks: Just retire later.

When you are a white-collar worker and you work in an office that is nicely air-conditioned and you have had full healthcare benefits throughout your entire life, maybe when you get into your sixties, you say, "Well, maybe I could keep working a little longer," but the reality for a huge percentage of Americans who work difficult jobs, who work jobs where their bodies wear out, they don't have the choice of simply saying: I will retire in another 5 years, because they literally have developed so many issues and challenges that it is impossible to do the same kind of work they did in their twenties and their thirties in their sixties.

So that strategy of moving the goalpost on American workers, many of whom are decades already into the work they are doing, doesn't fulfill the promise and the vision of the Social Security Program.

While Social Security is a great idea, moving the retirement age to age 70—which MICK MULVANEY advocates for, from his view as someone who comes from a job that perhaps isn't as arduous as many jobs in America—is a bad idea.

This vision continues on into Medicare. Like Social Security, Medicare is also a generational promise, a lifeline for countless Americans since President Johnson signed it into law now more than five decades ago. Over 55 million Americans rely on Medicare for their health and their financial security. Roughly, 46 million are older Americans, 9 million are younger Americans with disabilities or certain illnesses.

While this program has worked incredibly well, our nominee wants to "end Medicare as we know it." Those are ominous words for the 55 million Americans relying on Medicare. He also believes we have to raise the retirement age.

He told Bloomberg News in 2011: "You have to raise the retirement age, lower a payout, change the reimbursement system."

The problem with raising the retirement age is the same problem we have with Social Security. For American workers working hard in many types of jobs, their bodies are worn out. I used

to have folks come to my townhalls and say: Senator, I am just trying to stay alive until I get to age 65, and they would tell me how they had multiple diseases and they were choosing between which disease to treat or how they had a single significant problem, but they were deciding to skip their pills every other day or cut their pills in half or perhaps go a week without their pills at all or how they were choosing not to go to the doctor when they developed a difficulty because they were afraid they wouldn't be able to afford the payment. That is not a healthcare system, but MICK MULVANEY wants to say to those folks: Oh, you reached age 65, too bad. I am providing this healthcare program another 5 years into the future. That is simply wrong, but more than wrong, it is also in direct contradiction to the promises made by President Trump during his campaign.

The contrast is incredibly stark between the President's promise to Americans that unlike so many of the folks in his party, he would not be the one to promote tearing down Medicare and Social Security. He would not be the one to promote advancing the retirement age so people who are struggling have to struggle for another 5 years. So it is a poor fit between this individual and the office and the promises made to the American people.

Another concern I have is in regard to Congressman MULVANEY's advocacy for shutting down the economy. He seems very comfortable playing Russian roulette with our economy. He and a group of other House Members brought our government to a screeching halt in 2013 because they wanted to defund the Affordable Care Act. What is the Affordable Care Act? The Affordable Care Act has enabled 20 million Americans to gain access to healthcare that they didn't have previously.

In my home State of Oregon, the Affordable Care Act has enabled about one-half million people to gain access to healthcare, both through expansion of Medicaid, known as the Oregon Health Plan, and also through the healthcare exchange and marketplace where you can compare one policy to another, shop for the policy that best fits your family, and those of modest means get credit to help pay for those policies so they can actually afford them. It is an affordable care plan that provides for a healthcare set of benefits—benefits such as the ability to keep your children on your policy through age 26, benefits such as not having an annual limit or a lifetime limit on your policy so that when you do get seriously ill, you don't run out of healthcare partway into treating your disease. It is the Affordable Care Act that ends gender discrimination in the insurance marketplaces. It is the Affordable Care Act that says if you have a preexisting condition, you can still get insurance.

I was at a fundraising walk for a woman who had a family member with

multiple sclerosis. It was a fundraiser for multiple sclerosis. She said: Senator, this year is so different from last year. That was the year before the Affordable Care Act was implemented. I asked: How so? She said: A year ago, if your loved one was diagnosed with MS and they had insurance, you knew there was a good chance that your insurance was going to run out at the end of the year or they would hit a lifetime limit, and they wouldn't be able to pay for the care they needed. She said: If you didn't have insurance, you now have a preexisting condition that would prevent you from ever getting insurance.

She went on to say that the difference between last year and this year, because of the Affordable Care Act, is that now members in the MS community—those who had the disease and their family members who were supporting them all out at this fundraising walk—now knew their loved one would have the peace of mind that they would get the care they needed. This is what a healthcare system is all about, peace of mind, but MICK MULVANEY wanted to tear away that peace of mind. He proceeded to support a 16-day government shutdown that cost our country \$24 billion—and to what purpose? To rip peace of mind away from 20 million Americans.

Back in 2015, he threatened to do it all again. The damage he had done—the \$24 billion he had stolen from the American Treasury in the context of damaging the government with that shutdown—he was ready to do it all again in order to make sure Planned Parenthood never gets a dime from the government. To be clear, not a single dime from the government goes to Planned Parenthood for abortions. In fact, the organization that has done more to decrease abortions than any other in our country is Planned Parenthood. The government funds go for different purposes. They go to Planned Parenthood to do cancer screenings, breast cancer screenings, prostate cancer screenings, and a whole host of fundamental basic healthcare. They are the healthcare provider for 2.5 million American women. Just as he was ready to recklessly shut down the government to rip healthcare away from 20 million Americans in 2013, he was ready to defund these essential healthcare clinics serving 2.5 million Americans in 2015. That is a sign of someone who has lost their policy foundations and is acting in an irresponsible and unacceptable manner.

Let's talk a little bit about the Consumer Financial Protection Bureau. The CFPB was in response to a big problem in America, which was that we had no one looking out to shut down predatory financial practices. It was the responsibility of the Federal Reserve, but the Federal Reserve had their conversation on monetary policy up in the penthouse—the top level, if you will. That is what the Chairman of the Federal Reserve paid attention to.

They took the responsibility for consumer protection and put them down in the basement, and they locked the door and threw away the key.

Folks kept coming to the Federal Reserve saying: Hey, there is a major concern here. We have these predatory mortgages that have these teaser rates, and they are going to destroy the families who get those mortgages. They are going to destroy their dream of homeownership and turn it into a nightmare. People went to the Federal Reserve and said: By the way, we now have these wire loans, where there is no documentation of income and people are being sold these loans that they have no hope of repaying. In addition, we have another predatory practice called steering payments, which are kickbacks to originators. So they are getting kickbacks to steer people into subprime loans with high interest rates rather than prime loans that they qualify for. What happened? The Federal Reserve ignored all of that. That is the foundation for the collapse of our economy in 2008.

So along comes ELIZABETH WARREN. ELIZABETH WARREN, as an advocate, not yet a Senator, comes to this body and said: We need an agency whose mission is to look out and stop predatory financial practices, a Consumer Financial Protection Bureau, and we got it done.

What does MICK MULVANEY say about this effort to stop predatory financial practices? He says it is a "sick, sad joke." So I asked him about this in committee. I said: Really? This is an agency that finally is watching out for working families so they are not prey to predatory, fraudulent practices. And he said: Yes, "a sick, sad joke."

I said: You know, they have returned funds to 27 million Americans. What other agency has fought for Americans in that fashion—returned funds to them from folks who were operating in a predatory fashion, to 27 million Americans. I didn't change his view by raising that.

I said: You know, this agency, to those 27 million people, has returned \$12 billion. There was \$12 billion returned to people who were cheated; isn't that a good thing? But I didn't persuade him.

He said: You know, I don't like the way this agency is set up. I want it to be a commission rather than an individual who heads it, and I want the funds to be appropriated annually by Congress.

I can tell you exactly why he wants those provisions, because that is the way Congress, at the behest of Wall Street, can step on the air hose that supplies the oxygen to CFPB. They can stop the CFPB from functioning as a guardian, as a watchdog for consumers in America by simply defunding it.

We have a President who ran on the principle of taking on Wall Street, but MICK MULVANEY doesn't want to take on Wall Street. He wants to do their bidding, to be able to shut down this

agency that is finally fighting for financial fairness for working families. Wait. We have a President who said he is going to fight for working families. MICK MULVANEY should be backing the CFPB. He should be expanding the CFPB. He should be championing the CFPB, but, no, he wants to tear it down. That is deeply disturbing.

I see my colleague, the Senator from Hawaii, who is prepared to make remarks. I am going to wrap up my remarks.

There are more concerns that I have about the policy perspectives and how out of sync this nominee is with the promises the President made to fight for working Americans, the promises he made to take on Wall Street, the promises he made to protect Social Security, the promises he made to strengthen Medicare, not to tear it down. So for all these reasons, I find MICK MULVANEY is not the right person to fill this post, and I encourage my colleagues to vote against confirming him in this capacity.

The PRESIDING OFFICER. The Senator from Colorado.

ORDERS FOR THURSDAY, FEBRUARY 16, 2017

Mr. GARDNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Thursday, February 16; 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, and morning business be closed; finally, that following leader remarks, the Senate proceed to executive session, as under the previous order.

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

ORDER OF PROCEDURE

Mr. GARDNER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the remarks of Senators SCHATZ, WHITEHOUSE, and HIRONO, the Senate resume morning business and then stand adjourned under the previous order.

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

The Senator from Hawaii.

Mr. SCHATZ. Mr. President, the Senate is preparing to vote on Congressman MICK MULVANEY to lead the Office of Management and Budget. This nomination may seem like it doesn't deserve a lot of attention because we don't hear much outside of Washington about the OMB, the Office of Management and Budget. It is kind of a wonky, obscure office, with fewer than 500 staff members.

At a time when there are so many looming questions about this Republic, about this administration, it is easy to overlook the Congressman's nomination, but it actually matters very much, particularly at this moment, and that is because the person who controls the budget, the person who has the final say on fiscal and financial

priorities for the administration has immense power. This position controls the President's budget, and that means that this person can give the green light to programs and policies across the Federal Government or stop them in their tracks. And because he has a long track record as a legislator, Congressman MULVANEY has already shown what kind of decisionmaker he will be if he is in charge of the Office of Management and Budget, OMB.

I will be blunt. His record and his ideas are worrisome. It should concern every Senator who is worried about some of the biggest issues facing Americans, from Social Security, to public health, to the basic, uninterrupted operations of the government itself. So this vote is a moment of truth. It will determine where we really stand on the issues that shape both individual lives and our country's future.

Let me highlight just four issues to show why this person is the wrong person to run OMB.

The first is Social Security. More than 80 years ago, President Roosevelt signed the Social Security Act into law. In doing so, he created a national plan to provide economic security for American workers. Since then, Social Security has proven to be the most successful anti-poverty program in our history. Each year, it lifts more than 20 million Americans, including 1 million children, out of poverty.

It is hard to imagine a world without Social Security, but I want everybody to understand that pre-Social Security, we had tens of millions of Americans—more than we do now—who would be in poverty upon retirement. So this program has actually reduced poverty among the elderly more than any other program could possibly have accomplished.

Nowhere is Social Security more important than in Hawaii. More than 200,000 people receive Social Security benefits. For more than one in four Hawaii seniors, Social Security is their only source of income. And the money just isn't enough; it is about \$14,000 a year. Just to give folks an understanding of Hawaii, we are considered the second or third most expensive housing market in the United States. We are after New York and sometimes in second place or third place, depending on where San Francisco is, but we are one of the most expensive places to live in the United States. For one in four Social Security recipients, that is all they get—\$1,200 a month. Usually that will cover your apartment. That will not cover your electricity, it won't cover your utilities, it won't cover your food or clothing, and it won't cover your healthcare.

Today, most working households have little or no retirement assets at all, and many rely entirely on Social Security. This is partly because employer-provided pensions are becoming a thing of the past. So Social Security is more important than ever. It has become a pillar of our retirement system

that continues to work well. It is a universal guaranteed source of income that workers earn and depend on when they retire, but it is just not enough.

I will just add that it is only in Washington, DC, where entertaining the idea of cutting Social Security is considered moderate or mainstream or conservative, even, or adult. I mean, there is this sense that the way we ought to fix the challenges we have fiscally as a country is to take it out of the hides of people who get \$1,200 a month to live.

Instead of strengthening the program, Mr. MULVANEY's ideas are very radical. He has said he wants to systematically alter Social Security by raising the retirement age to 70 years old. He wants to raise the retirement age to 70 years old. This is not an obscure person being appointed to an obscure post; this is a Member of Congress being appointed to be the head of the Office of Management and Budget. We are going to vote on him tomorrow, and everybody who says they are for Social Security is about to vote for a person who wants to raise the Social Security retirement age to 70 years old.

He has called Social Security a Ponzi scheme. When he worked in the South Carolina State Senate, he voted to declare Social Security unconstitutional. Again, he voted to declare Social Security unconstitutional, and I predict he will get all of the Republican votes. And all of these folks who say they wanted to protect your Social Security, after they put Tom Price at the head of HHS, they are about to put someone who is dedicated to undermining the most successful anti-poverty program in American history.

When asked in his confirmation hearing—because, look, you are a Member of Congress; you represent a certain constituency; you have certain views. Some people are able to sort of pivot from their role as a legislator, as a politician, and into a role as an appointee, a Secretary, a nominee. So when he was asked in this confirmation hearing if he would recommend that the President break a campaign promise to leave Social Security alone, the Congressman said that he would recommend that the President make cuts to the program. So this isn't something he has recanted; this is something he stands by—up until and including through his confirmation and his service at OMB.

But why make cuts to the most successful anti-poverty program in American history? Why would we make cuts to a program that is financed by its own revenue stream and by law does not add \$1 to the deficit? Why would we cut benefits now just because we may have to cut them in 20 years? If we are going to change Social Security, let's do it in a way that expands benefits for generations to come. Let's lift the cap on taxable earnings. Let's remove the wage cap that unfairly shelters the highest earning Americans from paying

into the Social Security trust fund that the majority of hard-working Americans do.

Here is how it works. The cap is roughly \$120,000. So you pay Social Security—almost everybody pays Social Security tax, up to \$120,000 in income. That is mostly everybody, right. But if you make \$120,000, all of that is taxed up to \$120,000. If you make \$70,000, it is taxed up to \$70,000. If you make \$120 million in income, your first \$120,000 is taxed for Social Security purposes; everything else is taxed at zero for Social Security purposes.

My view is that every dollar of income should be taxed for Social Security purposes, and that does two things: First, we are going to be in a position to increase benefits—not massively, but every little bit counts. Second, we will be able to increase the solvency of the Social Security trust fund to the year 2049.

Most every family has a Social Security story, whether it is a grandmother who relies on the program's benefits to pay for groceries, a father who suffered a debilitating injury after decades of hard work and receives much needed Social Security disability benefits, or a widowed mother who relies on Social Security survivors benefits to bring up her children.

In my own home, we have three generations living together—my wife Linda and me; our kids, Tyler and Mia; and Linda's parents, George and Ping Kwok. George Kwok lived the American dream. He ran a chop suey house, a Chinese restaurant in Honolulu. Kwok's Chop Suey, and worked hard all his life to give opportunities to his kids, until his eyes gave out. Like 200,000 seniors across Hawaii, he now relies on Social Security—SSDI—Social Security disability.

I tell you about my family not because we are unique but because we are not, because we are like so many families in Hawaii and across the country. And with the number of retirees growing, we need to do everything we can to strengthen this program, not to weaken it.

After a lifetime of hard work, seniors deserve to retire with the dignity and the benefits they have earned. This is a promise from the Federal Government. The current generation of Americans must keep our promises to seniors, but given his record, I am convinced that Congressman MULVANEY will try to do the opposite.

The second issue I am concerned about is the basic operations of government. Whether you are a member of the military, a visitor to a national park, or a worker looking to retire in the near future, we all need for the government to fulfill its basic obligations. But Congressman MULVANEY voted to default on the U.S. debt several times, and he did it in the face of warnings from the U.S. Treasury that this would be unprecedented and catastrophic for our economy and that it could drive the world deep into another

recession just as we were finally recovering from the last one.

Think about how markets would react if the U.S. Government declared that it would not make good on its financial obligations. The stock markets would go crazy, and not in a good way. That would be terrible for the millions of people who invest their savings in the market for their retirement.

The Congressman has also voted several times to shut down the Federal Government, all in the name of getting his way. I cannot emphasize enough how dangerous his approach to government is. It is one thing as a Member of the House Freedom Caucus, as a Member of the U.S. House of Representatives—there are 435; you can take positions—but it doesn't have quite the direct impact that the Office of Management and Budget does. He has put party and partisan views over some of the most fundamental and basic principles of our government. To close the government, to stop paying our bills, to make people across the planet question the full faith and credit of the United States is beyond comprehension.

It should take a real crisis to pull Congress away from the negotiating table and all the challenges in front of us. But it actually wasn't a crisis that led the Congressman to vote to close our government; it was Planned Parenthood and the ACA. While we may disagree about the best approach on healthcare and even on reproductive choice and women's health, those disagreements should never get in the way of the U.S. Government going about its business. Yet Congressman MULVANEY's actions went against that basic principle.

With respect to our Democratic institutions, the procedural violence that was done to the U.S. Congress is hard to overstate in this case. The idea that a faction of a party would demand concessions—and I think we remember this—would demand concessions in exchange for satisfying their infliction of pain on the United States is unbelievable. And why? Because we are all Americans here. We all want to do right by our country. So the idea that one party would be willing to inflict terrible pain on the country, or else, was so beyond the pale that there is no rule against it, there is no law against it. And do you know why there is no rule and no law against it? It is because nobody contemplated that a major political party would behave in such a way. The assumption has always been that elected leaders would find a better way to stand up for their strongly held beliefs than by threatening to bring the American economy to its knees. Up until the shutdown led by the Congressman, that had been a safe assumption.

In 2011, Congress's delay in raising the debt limit forced the Department of Treasury to take what they call extraordinary measures to ensure that our government could pay its bills.

GAO estimates that this raised Treasury's borrowing costs by about \$1.3 billion in fiscal year 2011. That is \$1.3 billion in added government costs just for coming close to defaulting. The Bipartisan Policy Center projects that the full cost of that crisis to the Federal Government alone—not to the private sector economy, just the Federal Government—was around \$20 billion over the maturity of that debt.

There is nothing conservative about defaulting on what we owe. It cripples free markets. It is Russian roulette playing, with a bullet in every chamber. There is nothing conservative about that.

When the government closed in 2013, we paid Federal workers to stay home. I want everybody to understand what we ended up doing. Listen, it wasn't their fault. These government employees are not the ones who screwed up; it was the Congress that screwed up. We paid dedicated Federal workers who want to do their jobs, not to do their jobs. We forced them to stay home and paid them anyway. I defy you to find a conservative outside of the Halls of Congress who finds that to be a conservative proposition. It is one thing to shut down the government for a couple of weeks and accrue the savings. I think that is inhumane, I think that is bananas, but at least you would save the money. These folks ended up paying all the money out and just forcing government workers to not do their jobs. This is not the left or right; this is upside down. We prevented Federal workers from doing their important work, like assisting small businesses and combating terrorism.

Ultimately, the 2013 shutdown was a bad move for our economy and for our budget. It cost us money instead of saving us money. In just the first week, it cost the economy \$1.6 billion in lost economic output, and it cost about \$160 million a day on the private sector side.

Worst of all, the Congressman has not seen the error of this. There were a lot of Members of Congress on both sides of the aisle who—in the heat of the battle, you sort of think the other side is going to back off and listen. We all learn lessons. We all make mistakes. There are a lot of Republicans who went through that shutdown and said: We never want to do that to the country again. But Congressman MULVANEY has not seen the error of his ways. He still believes the government shutdown was a good idea, and he said so at the confirmation hearing.

Senator McCASKILL asked if he still thought the shutdown was the right way to go about things, and he answered yes. He answered yes. This kind of budget brinkmanship is not good for our government, to say the least, but it is certainly a bad fit for the person running the OMB.

The third issue I want to talk about is the Congressman's rejection of the role of public health and science. If we look at some of the biggest issues our

country faces, it is clear that we need an OMB Director who understands the value of science, research, and public health. But the Congressman has said that climate change is based on "questionable science" and "baseless claims." He has asked if we need government-funded research at all. These are not the views we should see from the person who directs the budget of the executive branch.

In September of last year, Congressman MULVANEY posted a statement about Zika on Facebook. He said:

I have received all sorts of email and Facebook comments this week on Zika. Some people want me to pass a "clean" bill (which I suppose means not paying for it with spending reductions elsewhere.) Other folks want us to fund more research if we can find a way to pay for it.

No one has written me yet, though, to ask what might be the best question: Do we really need government research at all? Do we really need government funded research at all?

In his statement, he goes on to ask questions that many have asked about what we are seeing in Brazil, as opposed to other countries affected by Zika. But that is exactly why you do the research. It is not for a Member of Congress to referee how much money should go to CDC and play amateur scientist. We have expert agencies. The CDC did an extraordinary job, not just on Zika but on Ebola. They have done extraordinary work over the decades in keeping people safe. If he is saying there are some scientific mysteries remaining around Zika, that is absolutely true. That is why we need to give the CDC and the National Institutes of Health money to try to figure this out. Those questions are the very reasons we need government-funded research, not an excuse to get rid of it.

I want to be clear as to why this matters so much. I am not trying to catch him saying something that is a little off. There is a foundational, bipartisan consensus around public health research, and the person who has been nominated to run the Federal budget doesn't appear to believe in that research. This isn't just out of the political mainstream. People will die if he implements his point of view.

Look at some of the diseases where government-funded research has had a significant impact on saving lives: Ebola, HIV/AIDS, malaria, polio, to name a few. We have made the advances we see today because the government stepped in and invested in the research, and that has to continue.

Right around the time we debated funding for Zika, I visited the Centers for Disease Control and Prevention, or CDC, in Atlanta to learn more about their efforts to combat Zika, dengue, and other diseases. I left Atlanta feeling totally confident that the CDC will help our country with challenges like Zika. Millions of Americans are counting on the government to maintain that confidence. But that can happen only if CDC has the strongest funding possible so they can continue to do their good work.

Taking money away from the Prevention and Public Health Fund would strip the CDC and other important agencies of the funds they need to protect our country from within and from without. That is what happened in Congress. The legislative branch did not fully step up to the plate and do its job in addressing Zika. Because of that, we forced the Obama administration to pull money from the CDC to address Ebola or from States to address other public health risks. Doing so disrupted public health infrastructure planning across the world that we still need to make sure that Ebola never ravages communities again.

Regardless of your side of the aisle, we can all agree this is the one thing that government has to do; that is, to keep us physically safe. Investing in CDC and other agencies that protect our citizens from diseases shouldn't depend on your philosophy of government. Unless you believe in, literally, no government, this is money well spent. This is the kind of thing the government does. We cannot walk away from our country's legacy of funding good research that saves lives, but that is exactly what Congressman MULVANEY suggests we do.

He has also made deeply disturbing comments about the science behind climate change. There can be no doubt that climate change is real, that it is caused by humans, and that we have a responsibility to take action. We ignore the science that shows us this at our own risk, and it is a risk our country cannot take.

The fourth and final issue I want to touch upon is healthcare—specifically, Medicare and Medicaid. I am a little worried that people feel reassured because of the rhetoric they heard last year from the President. He did reassure his voters that he was going to save Medicare and Medicaid and protect it from cuts. He promised several times that he wouldn't make any cuts whatsoever to Medicare and Medicaid. But when a Senator reminded Congressman MULVANEY about this during his confirmation hearing, he did not say he would support the administration's promises to the American people. He said that he would advise the President to break that promise. He said that he would advise President Trump to break his campaign promise and change Medicare and Medicaid. Why are we voting for this person? He said that he would advise the President to break the promise and change Medicare, Medicaid, and Social Security.

He wants to cut Medicaid—a program that millions of people rely upon. More than 50 years ago, when Medicaid was created, Congress made a really smart decision and designed the program so that if and when healthcare costs rise or the economy starts to struggle, Medicaid would be there for the American people, no matter what. Now the counselor to the President says that as part of the ACA replacement plan, Medicaid will be converted to block grants.



I worry a little bit about the phrasing “block grants” because that doesn’t sound that bad. I used to work in the not-for-profit sector. I like grants, and I used to pursue Community Development Block Grants, Community Services Block Grants. I like grants; I like Medicaid. I am not sure whether “block” means anything positively or negatively, but I want everybody to understand what block-granting Medicaid means: It means cutting Medicaid. That is exactly what it means. It is a euphemism. People in this administration and people nominated to be part of this administration share that view, and they have a long history to back it up.

The term “block grants” is a euphemism. It is not quite a lie, but it is a way to describe something so that you don’t know what it is. They are calling it a block grant because they don’t want to say they are cutting Medicaid. That is what they are doing; they are going to cut Medicaid, and these cuts will hurt millions of people. They will hurt working families.

Everybody understands Medicaid is there for the economically indigent, in the case of an emergency. But the thing that people also don’t realize—and that is a really important aspect of that program—but it is also really important for nursing home care. That is not just an issue for people who are down on their luck financially or while they are young or while they are parents. When people get older, it is really difficult to afford nursing home care. For most people who are not extraordinarily wealthy, Medicaid is the way to handle nursing home care. It is reimbursable.

I know that nursing home care in Hawaii costs \$8,000, \$9,000 a month. I don’t know anybody who can run through \$8,000, \$9,000 a month for very long. I know a couple of people, but most people I know can’t do that without Medicaid. Certainly, Medicaid is an issue that affects the very poor, but it also affects the rest of us. It affects people who aren’t just lying on a pile of cash to take care of their grandmother or their mother or their father or their spouse when they are in their golden years.

These cuts will hurt women who need Medicaid for maternal health services, as well as seniors and people with disabilities. These people have nowhere else to turn. Medicaid is their only option.

Some people point to expanded local control as a reason to move forward with block grants. That is just nonsense. They are basically going to flatten out or cut the amount a State gets, and then they can sit there and divide up an increasingly smaller pie. I am not sure if that is even a euphemism. That is just nonsense. That will not help any State to meet their needs. That is why Republican Governors—anybody with responsibility for actually governing, delivering services to their constituents—don’t want to cut

Medicaid. They don’t want to reduce Medicaid expansion under ACA, and they certainly don’t want a block grant because they know what that will mean. Even if you are a fiscal conservative, if you are in charge of a State, you understand exactly what is going to happen to your constituents if Medicaid is cut.

This is another instance of a party that promised not to touch Medicaid. But here we are, debating a nominee to lead the OMB who wants to make cuts to this program. This is a deal breaker for me and for many others, and it will be a disaster for millions of Americans. That is why today we have to stand up for seniors, for women, for children and fight any cuts to Medicaid. That starts with voting no on this nomination.

I have heard about Congressman MULVANEY from hundreds of people from the State of Hawaii. I want to share a few of the messages that I have received from people in Hawaii.

Here is what one man from Oahu wrote:

As a researching scientist, I recognize the very significant damage these appointees will have on US health and competitiveness in the world.

A break in research funding, or politically-directed and censored research, impacts long term research. A brief hiatus can result in many years set-back of programs and resulting societal benefits.

A woman from Volcano Village on the Big Island sent me this message:

[This administration’s] agenda lies in [the] nominees for the department of Health and Human Services and the Office of Management and Budget who have spent their congressional careers trying to destroy [Social Security, Medicare, and Medicaid].

Another woman wrote me with this:

[The] nominees for HHS and OMB are walking disasters for the department they’d lead.

Both have spent their congressional careers trying to destroy [Social Security, Medicare, and Medicaid]. Oh, yes, and the ACA/Obamacare, which has proven to be resoundingly popular.

We are hearing from so many people on these issues because they understand how this works. They understand that personnel is policy. You don’t get to say you are for protecting Social Security, and then vote for someone who wants to eliminate Social Security as we know it. You don’t get to say you are for protecting Medicare and Medicaid, and then vote for someone who has dedicated their career to eliminating or at least seriously undermining this program.

If you want to increase the Social Security retirement age, then this is your nominee. If you aren’t opposed to seeing our country go through a series of precipices with the shutdown of the Federal Government—from the huge drops in the market to the closing of our National Parks—then this is your nominee. If you think Federal investments in public health, disease control, and prevention should be eliminated, then this is your nominee. If you want to see cuts to Medicare and Medicaid by 25 percent or more, then vote yes.

But if, like me, you know that this is not the right approach to governing, that this is not how we should go about caring for our people and preparing for the future, then you need to vote no.

At the end of the day, the leader of the Office of Management and Budget will need to understand how to build a budget for our country and make sure U.S. Government agencies have the resources they need to pursue the mission. This person will need to understand why diplomacy matters, why Medicare and Medicaid matter, why job training and education programs matter, and why financial and fiscal stability matters. Ultimately, he needs to know that government matters and that it can make a difference in people’s lives. It determines how bright tomorrow can be for our kids and grandkids and how safe of a world we can create for them.

Congressman MULVANEY does not have that record or a confirmation hearing record that can convince any of us that he understands the potential we all have—the obligation we have—to make the right investments that reflect who we are and the future that we want as a country. That is why I will be voting no on this confirmation, and I urge my colleagues on both sides of the aisle to join me.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARDNER). The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

Ms. HIRONO. Mr. President, the Director of the Office of Management and Budget, or OMB, is probably the most powerful Federal job that most Americans have never heard of. If you were to ask five out of five regular people whether they have even heard of the Office of Management and Budget, or its importance, I would say that probably five of them would say: I have never heard of it; what do they do?

The Director of OMB has broad discretion to develop Federal regulations and to set spending priorities across the government—spending priorities across the government. I think we should make sure that this person actually cares about service to the people of America.

For example, if the Defense Department needs more resources for our troops, OMB has to sign off. If the Environmental Protection Agency wants to protect our communities from air and water pollution, OMB has to sign off. If the President wants to cut Social Security, Medicare, and Medicaid under the guise of “saving money,” the OMB Director is responsible for implementing the policy.

Given the tremendous power invested in this position, the next OMB Director should, at a minimum, believe in the

central government functions he or she will be tasked to carry out. That is why I strongly oppose the nomination of Congressman MIKE MULVANEY to serve as the next Director of the Office of Management and Budget.

Congressman MULVANEY came to Washington at the very right fringe of the tea party wave in 2010. Since then, he has consistently pursued policies that would be disastrous for our economy, for the most vulnerable members of our society, and for America's seniors—our kupuna.

Congressman MULVANEY has been one of the strongest proponents for privatizing and voucherizing Medicare and dismantling Medicaid during his time in Congress. In 2011, while explaining his support for the draconian, really terrible Republican budget that would have destroyed the social safety net and gutted funding for nearly every domestic program—nearly every domestic program and you can imagine the thousands and thousands of domestic programs people across the country are relying upon—Congressman MULVANEY said:

Two nights ago, there was a group of Republicans in the House of Representatives who voted to dramatically overhaul Medicare and Medicaid and lightning did not strike us. If that is not a sign that maybe things can be different around here, I don't know what is. So I'm hoping that—I hope we have that exact debate over the course of the next year.

Let me be clear. Congressman MULVANEY was gloating over a bill that would be devastating to millions of seniors and Americans on Medicaid and Medicare. If confirmed, Congressman MULVANEY would not just be one extremist in the House of Representatives; he would be the person—the one person—responsible for developing, rolling out, and implementing the President's budget and his priorities.

With this power, he would be in a position to fulfill his heart's desire—all of the things he worked on as a member of the tea party and a Member of the House of Representatives. He could destroy programs like Medicare and Social Security, which more than 200,000 seniors in Hawaii and tens of millions across the United States depend on every single day. There are things we can do to fight back.

Last month, I fought alongside my friend and colleague from Indiana, Senator JOE DONNELLY, to prevent Congressman MULVANEY and the Trump administration from using budget gimmicks to privatize Medicare and cut funding from Medicaid. While our amendment was defeated in a very close vote, I was encouraged that two of our Republican colleagues—Senator DEAN HELLER of Nevada and Senator SUSAN COLLINS of Maine—voted in favor of my amendment.

This vote demonstrated that there is bipartisan opposition to balancing the budget on the backs of our seniors. This is exactly what Congressman MULVANEY wants to do. He has called Social Security a Ponzi scheme. Ponzi

schemes are illegal, but he calls Social Security—a program that millions and millions of people throughout our country rely upon—a Ponzi scheme and supports raising the eligibility for it to 70 years old.

When he was in the South Carolina legislature, he even supported a bill that said that Social Security was unconstitutional. I would say even the most conservative person would not deem Social Security to be unconstitutional, but that is the kind of position that Congressman MULVANEY takes. His positions on Medicare, Medicaid, and Social Security are enough to disqualify him from serving as OMB Director.

We do not need an ideological flame-thrower like Congressman MULVANEY at the helm of OMB. Sadly, there is more. Congressman MULVANEY is a debt limit denier. To demonstrate the point, I wish to read his response to a question he received from the Budget Committee:

I do believe that defaulting on America's debts would have grave worldwide economic consequences. I do not believe that breaching the debt ceiling will automatically or inevitably lead to that result.

Not only is this statement wrong, but it contradicts itself. I was in the House in 2011 when Congressman MULVANEY and his colleagues played political games with the debt limit. I can tell you that the stock market did not agree with his assessment that there wouldn't be an immediate negative impact.

Here is what happened over the course of a week. The stock market lost \$1 trillion in value—\$1 trillion in value. Standard & Poor's downgraded the U.S. credit for the first time in our country's history.

The Government Accountability Office later found that the standoff increased our borrowing costs by \$1.3 billion, which Congressman MULVANEY and his Republican allies were all too happy to pass along to the American taxpayers to pay.

Congressman MULVANEY's record clearly demonstrates why he is unfit to serve as the Director of the Office of Management and Budget. He wants to balance the budget on the backs of seniors and other vulnerable communities. He believes in governing from fiscal crisis to fiscal crisis. It isn't even clear if he supports the mission of the department he has been nominated to lead.

Congressman MULVANEY joins a list of nominees—many of them confirmed at this point, sadly—ranging from an Education Secretary who does not believe in public education to a Secretary of Health and Human Services who wants to basically dismantle Medicare, Medicaid, and Social Security not far behind.

I ask my colleagues, when does this long list of nominees come to a stop? I say, at the very least, someone with the power of the Director of OMB is where we should be drawing the line,

unless we want one who thinks that defaulting on our national debt is not a problem, unless we think that hurting millions and millions of seniors on Social Security and Medicare is not a problem.

I feel as though Congressman MULVANEY perhaps has not encountered enough people in his time in public service who have come to him to share their stories of the devastation that would come into their lives if these safety net programs were not there for them. I feel as though maybe if they have come to talk to him, he hasn't listened very well.

I encourage my colleagues to hold the line at this point and to oppose this nomination. Congressman MULVANEY is not the person for OMB.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. Mr. President, we are considering the nomination of Congressman MULVANEY to become the Director of the Office of Management and Budget. In the context of the review of this nomination, there has been a lot of talk about Congressman MULVANEY being a "straight shooter." I do appreciate his courtesy meeting with me and his participation in our Budget Committee confirmation hearing last month, but I have to say that his 6-year record in the House of Representatives makes it completely impossible for me to vote for him as our Nation's chief budget officer.

He may be a straight shooter, but he shoots straight at the wrong targets. One of them is the credit of the United States of America. In the House of Representatives, Congressman MULVANEY repeatedly put our economy in jeopardy by voting to let the Federal Government default on its obligations. He had an opportunity after his nomination, when he came before the Budget Committee, to pivot to a more mainstream and responsible position, but he refused. In an answer to a prehearing question he said:

I do believe that defaulting on America's debts would have great worldwide consequences. I do not believe that breaching the debt ceiling will automatically or inevitably lead to that result.

Well, if you breach the debt ceiling, and if you honor the debt ceiling law, that means that our government would not have the money to pay all of its bills. Something has to be defaulted on or the debt ceiling is a complete chimera.

Mr. MULVANEY's completely unsupported faith that a default on some of our Nation's obligations might not have grave consequences ignores basic economics, and it ignores the guidance

of liberal and conservative economists and experts alike, including Douglas Holtz-Eakin, Benjamin Bernanke, Hank Paulson, Janet Yellen, Jack Lew, and many, many others.

In fact, many of my Republican colleagues in this room were gravely concerned about what happened if we blew through the debt ceiling, and that we perhaps had made a bet we would be unable to pay. To put it simply, lenders tend to charge more for riskier loans, and a borrower that won't pay all of its bills on time is riskier than one that does.

Tom Donahue of the U.S. Chamber of Commerce is not someone that I ordinarily cite favorably here in the Senate. He is an inveterate enemy on doing anything on climate change. He and I disagree on a great number of issues, but even Tom Donahue noted that a small increase in treasury rates, which would happen as the result of a default, "would translate into hundreds of thousands of jobs lost every year."

A member of the self-styled "shut-down caucus," Mr. MULVANEY chooses to ignore the fact that his fiscal brinkmanship has already cost the American people. Playing around with the debt ceiling and shutting down the government are not free exercises. According to the Wall Street firm Standard and Poor's, the 16-day government shutdown that the Congressman helped orchestrate in 2013 cost the American economy \$24 billion. That is shooting straight at our economy just to prove a political point. That is not the kind of straight shooter that we need. Of course, that doesn't even mention the unnecessary stress that the shutdown caused for millions of government contractors who weren't sure they would be paid. There is pain and there is damage from the reckless decisions that Congressman MULVANEY seems to make so easily.

Congressman MULVANEY's blind faith is not limited to economics. He disregards science too. In response to questions I asked him at the hearing, he said he is not convinced by the evidence presented that climate change is at least partly driven by human activity. Well, he ought to take a little look at what is going on at his home State university, the University of South Carolina, which has the School of the Earth, Ocean, and Environment. It actually teaches climate change. The University of South Carolina doesn't just believe climate change; it teaches it. It has a faculty who are involved in teaching the students about what is happening in our atmosphere and in our oceans as a result of climate change.

This is not all that complicated stuff. We have known since President Lincoln was riding around Washington in his top hat that greenhouse gases in the atmosphere would catch heat in the atmosphere and would warm the Earth. That was a scientist named Tyndall. This is not news; this is 150

years old. It is simple, elemental chemistry, what happens when you ramp up the level of CO<sub>2</sub> in the atmosphere and how that works in the oceans. The CO<sub>2</sub> gets absorbed by the oceans. The oceans, as a result of absorbing CO<sub>2</sub>, become more acidic. What we are seeing now is the acidification of the ocean in the experience of humankind—indeed, in probably like 100 times the experience of humankind. You have to go back 50 years to find a similar rate of acidification of the ocean.

Well, Mr. MULVANEY represents South Carolina. South Carolina is a coastal State. It is an ocean State. The University of South Carolina studies its oceans. They know ocean acidification is happening. When the Congressman says that he is not convinced by the evidence presented, something other than being a straight shooter is going on.

According to NASA, for instance, the National Aeronautics and Space Administration—which, by the way, right now is driving a rover around on the surface of the planet Mars. So can we perhaps stipulate that the scientists at NASA know what they are talking about? No other country in the world, no other society in human history has had the capacity to launch from Earth a rover, fly it through space to Mars, land it safely on that other planet, and drive it around. We can do that. NASA scientists did that. So when NASA scientists say that "multiple studies published in peer-reviewed scientific journals show that 97 percent or more of actively publishing climate scientists agree climate-warming trends over the past century are extremely likely due to human activity"—so essentially all the experts agree.

His home State university, the University of South Carolina, teaches this. They don't just listen to it, they teach it. They understand what is going on. But MULVANEY says he is not convinced. What is it going to take to convince him? How can you be a straight shooter when you ignore this kind of certainty in science, particularly when around this building you see the circling menace of the fossil fuel industry always with its guns out, always trying to shoot down anybody who will disagree with them, always trying to pretend that climate change isn't real, always trying to defend a \$700 billion-a-year subsidy that they get at the expense of the rest of America? And because, thanks to Citizens United, they have the capacity to spend enormous, unlimited amounts of money in politics, they can spend a great deal to protect that \$700 billion in subsidies, and they do.

So we do nothing about climate change here. You can't get a Republican to talk seriously about climate change here. The oceans are changing off of their States, and they won't talk about climate change here. Their universities are saying that climate change is real. Their universities are teaching that climate change is real.

And they won't say one thing about climate change here. And this so-called straight shooter is going to go along with that racket rather than listen to his home State universities and to the scientists at NASA, who have put the rover on Mars? Give me a break.

While this man claims to be a deficit hawk, I asked him if he was ready to take on the hundreds of billions of dollars that go out the back door of our economy in tax breaks, in wasteful tax loopholes, in tax benefits for special interests, and he wouldn't give me a straight answer to the question.

From his record in the House, it appears pretty clear that Mr. MULVANEY would rather balance the budget by going after seniors, by going after Social Security, by going after Medicare, by going after the families who have children on Medicaid because their children have lifetime disabilities that require Medicaid support. Those are the targets. That is who this so-called straight shooter wants to shoot at. But as for, say, the tax benefit that lets billionaires depreciate their private jets faster than the airline can, oh, no, can't touch that. As for the tax loophole that lets carried interest Wall Street billionaires pay lower tax rates than their doormen, than their janitors, oh, no, can't possibly touch that. As for the subsidies we give through the Tax Code to the fossil fuel industry every year when they are the most lucrative corporations in the history of the planet, oh, no, we can't possibly do that. Let's go after the old folks. That is not being a straight shooter; that is shooting at the wrong people.

Someone who is a straight shooter when it happens to agree with the politics that they like but is a flatout denier when it doesn't, that is not my idea of a straight shooter.

Congressman MULVANEY is possessed by conservative ideology that I strongly believe is going to prevent him ever from working across party lines on the budget, on health care, or on other major issues that he will have to face at OMB. His counsel is likely to pull President Trump further out to the extremes, which already divide this country.

And by the way, to all of those voters who voted for President Trump because he said that he was different from all the other Republican candidates; that he was different from the other 15 candidates because he wasn't going to hurt Social Security and he wasn't going to hurt Medicare; that he was different from all the others because he was going to protect Social Security and he was going to protect Medicare—folks, I think you were sold a bill of goods because when you look at Congressman PRICE and when you look at Congressman MULVANEY and when you look at their records, you see the records of people who have targeted Social Security and targeted Medicare for years. They may be straight shooters, but they have Social Security and Medicare in the crosshairs. Those are not the right targets for us to be shooting

at in a tax system that is riddled with special interest loopholes and in a country that is so divided and where the poor and the elderly are struggling compared to the people who are at the very top, who have basically gathered all of the economic benefit of our growth since the great recession.

So, for all of those reasons, I will be completely unable to support this person's confirmation. I am sorry because I would like to have seen the President make the slightest gesture in the direction of bipartisanship, the slightest gesture in the direction of compromise, the slightest gesture in the direction of reasonableness, but out of this White House, on the civilian Cabinet, we have seen nothing like that.

It is a Cabinet that is completely controlled by rightwing ideology and appalling special interests. Usually, the special interests are the most dangerous and worst special interests that the agency has to regulate. Instead of accepting that as the agency's responsibility, he has brought that special interest in, brought the fox into the henhouse. If there was ever a fox in the OMB henhouse to take our Social Security folks and our Medicare folks and hurt them, it is this Congressman.

I cannot accept his nomination. I will vote against it.

I yield the floor.

## LEGISLATIVE SESSION

### MORNING BUSINESS

The PRESIDING OFFICER (Mr. SCOTT). Under the previous order, the Senate will be in a period of morning business.

### SOCIAL SECURITY ADMINISTRATION RULE

Mr. SCHUMER. Mr. President, I rise to speak on the potential repeal of the Social Security Administration's rule that helps keep guns out of the hands of those with a severe mental illness. I voted no.

First, I want to point out that this rule only addresses a shortcoming in the existing background check law that Congress passed legislation to address. We use the National Instant Criminal Background Check system to prevent criminals and the adjudicated mentally ill from purchasing firearms.

In order for the FBI to have access to all the data they need to run those background checks, Congress passed the NICS Improvement Act in 2007—in bipartisan fashion, signed into law by President George W. Bush, hardly a gun safety activist—to instruct Federal agencies to send information to the NICS system about criminal records and mental illness.

This rule at the Social Security Administration is simply implementing that bipartisan law.

Second, let me underscore the point, this rule only applies to those who

have severe mental health disorders, like schizophrenia. These are folks who, because of their disorder need assistance managing their own affairs and are so severely impaired that they cannot hold down a full-time job. It simply requires the Social Security Administration to pass that data on to the NICS background check system so the FBI can stop gun sales to the seriously mentally ill.

It doesn't get much more common sense than that.

Frankly, I find it absurd that the Republicans have chosen to repeal this rule as one of their first priorities in this Congress.

Does the Republican majority really think it is wise, as my colleague from Connecticut asked, that folks who are so severely mentally ill that they cannot work and require assistance managing their finances should be assumed to be able to responsibly own and protect a gun?

Mental illness is a serious topic. We have debated it many times in this body—how to better provide for treatment, how to decrease the stigma surrounding it—but I don't remember the part where we debated whether it was wise or not to allow folks with a severe, almost incapacitating, mental illness to easily purchase a gun.

Gun violence takes far too many lives each year. At the very, very least, we should be doing all that we can to prevent criminals, potential terrorists, and the adjudicated mentally ill from purchasing firearms; yet Republicans consistently line up behind the NRA to block or repeal policies that would do those things—even though 8 or 9 out of every 10 Americans supports them, though a vast majority of gunowners support them.

Whenever Republicans talk about gun violence, they say, "Let's enforce the laws on the books!" Well, as I mentioned, this regulation does just that; it implements the bipartisan 2007 NICS Improvement Act that Republican President George W. Bush signed into law.

Today, Republicans are calling their own bluff; they are not interested in enforcing the laws on the books—they just want to repeal them, even when that puts innocent American lives at risk.

If Republicans have a problem with this rule, they should have pushed the Social Security Administration to modify it, rather than repealing it outright and blocking any similar rule-making on the subject, which is what this CRA would do.

Thank you.

### NOMINATION OF SCOTT PRUITT

Ms. COLLINS. Mr. President, after careful consideration, I have decided to oppose the confirmation of Scott Pruitt, the nominee for Administrator of the Environmental Protection Agency, EPA. I have met at length with Mr. Pruitt, who is an accomplished attor-

ney with considerable knowledge about environmental laws. We discussed many important environmental issues about which I care deeply—from EPA's enforcement of landmark environmental laws, including the Clean Air Act and the Clean Water Act, to climate change and the Clean Power Plan, to protections from harmful pollutants such as lead and mercury. I also have reviewed testimony from his confirmation hearing.

In keeping with my past practice, regardless of which party is in the White House, I will vote for cloture on his nomination so that every Senator can have a clear, up-or-down vote on this important nomination of a member of the President's Cabinet. But I will vote no on Mr. Pruitt's confirmation.

The fact is Mr. Pruitt and I have fundamentally different views of the role and mission of the EPA. That does not mean that I agree with every regulatory action that EPA has taken. At times, the Agency has been difficult to work with and unresponsive to bipartisan congressional concerns, but the EPA plays a vital role in implementing and enforcing landmark laws that protect not only our environment but also public health.

Specifically, I have significant concerns that Mr. Pruitt has actively opposed and sued EPA on numerous issues that are of great importance to the State of Maine, including mercury controls for coal-fired power plants and efforts to reduce cross-State air pollution and greenhouse gas emissions. His actions leave me with considerable doubts about whether his vision for the EPA is consistent with the Agency's critical mission to protect human health and the environment.

The State of Maine, located at the end of our Nation's "air pollution tailpipe," is on the receiving end of pollution generated by coal-fired power plants in other States. Reducing harmful air pollutants is critical for public health, particularly for Maine, which has among the highest rates of asthma in the country. Controls for mercury, one of the most persistent and dangerous pollutants, are especially important for children and pregnant women. Moreover, there is no doubt that the greenhouse gas emissions driving climate change pose a significant threat to our State's economy and our natural resources, from our working forests, fishing, and agricultural industries, to tourism and recreation.

The opposition to the nominee expressed by Friends of Acadia is grounded in concerns about the importance of emissions reductions for lessening the impacts of climate change that affect this gem of a national park. The changes we are already seeing in the aquatic life in Casco Bay and the Gulf of Maine, for example, are cause for alarm. The incidence of Lyme disease in northern Maine and high asthma rates throughout the State are also linked to environmental changes that threaten the health and well-being of too many Maine people.

These are among the reasons why I have voted to uphold the EPA rule governing mercury and air toxics standards from coal-fired power plants and the cross-State air pollution rule, as well as the Clean Power Plan to limit carbon pollution from existing and new fossil fuel-fired power plants.

I reject the false choice of pitting the environment against the economy because, for much of the State of Maine, the economy and the environment are inextricably linked. A strong commitment to protecting the health of our Nation's environment is critical for protecting Maine's natural beauty, the State's economy, and the health of those of us fortunate enough to call Maine home.

Due to my concerns about Mr. Prutt's commitment to the mission of the EPA, I will cast my vote in opposition to his confirmation.

#### 75TH ANNIVERSARY OF THE U.S. NAVY SEABEES

Mr. COCHRAN. Mr. President, today I wish to pay tribute to the U.S. Navy Construction Battalion, also known as the SeaBees, and congratulate them on their 75th anniversary. It was March 5th, 1942, when the SeaBees were charged by the Navy with the task of building, maintaining, and supporting base infrastructure in remote locations for the Navy and Marine Corps. SeaBees execute this critical mission, while also maintaining the capability to engage in combat operations.

For 75 years, the SeaBees have met challenges in times of war and peace. They have been deployed all over the world, contributing to our national security interests by constructing military bases, building airfields, roads, bridges, and even underwater structures. In every major operation our Nation has carried out, from World War II to present operations in Iraq and Afghanistan, the Navy SeaBees are there, demonstrating unmatched courage, strength, and professionalism. Their personal sacrifices are a testament to the dedication of the Navy's elite construction force.

As we honor the SeaBees today, let us not forget to acknowledge the many sacrifices their families have made throughout their 75 years. Whether at home or abroad in the more than 30 countries to which they deploy, it is the support of their families that enables the brave men and women of the SeaBees to accomplish their mission with the utmost devotion to duty, honor, and country. I am proud that Gulfport, MS, serves as home to the Naval Construction Battalion Center, where more than 12,500 SeaBees, sailors, airmen, and soldiers have received valuable training this past year alone.

We congratulate the U.S. Navy SeaBees on their 75th anniversary and reaffirm our commitment to them.

#### TRIBUTE TO ROSE ILES FEALY

Mr. THUNE. Mr. President, today I wish to recognize the hard work of my Commerce, Science, and Transportation Committee intern Rose Iles Fealy. Rose hails from Perth, Western Australia, where she studies political science at the Australian National University.

While interning on the Commerce Committee, Rose has assisted the Consumer Protection, Product Safety, Insurance, and Data Security Subcommittee. Following her internship, Rose intends to pursue law school. I extend my sincere thanks and appreciation to Rose Iles Fealy for all of the fine work she has done for the committee and wish her continued success in the years to come.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING PIMENTEL & SONS GUITARMAKERS

• Mr. HEINRICH. Mr. President, it is an honor to join musicians and music lovers in recognizing Albuquerque's Pimentel family for their 65 years of building handcrafted instruments that are sought after by guitar players and collectors around the world.

Pimentel & Sons is a successful family-owned small business that was started from scratch and has been sustained with innovation, hard work, and a commitment to excellence.

As the ranking member on the Joint Economic Committee, I am proud to recognize successful entrepreneurs and small business owners like the Pimentels.

Lorenzo Pimentel learned the craft of building guitars as a teenager in Ciudad Juarez. After marrying his wife, Josefina, Lorenzo moved his family to Albuquerque after falling in love with the Sandia Mountains. Over his lifetime, Lorenzo Pimentel accumulated an incredible list of accolades for his guitars.

Four of Lorenzo's sons, Agustin, Ricardo, Roberto, and Victor, have continued their late father's work as master guitar makers in their own right. They have each played an integral role in shaping New Mexico's music scene for decades.

Pimentel & Sons has earned the Hispanic Heritage Month Distinguished Honor Award, the Governor's Award for Excellence and Achievement in the Arts, and an invitation to the Smithsonian Institute's Festival of American Folklife.

In 2009, Governor Bill Richardson signed a bill designating Pimentel's Sunrise model as the official State guitar of New Mexico.

Generations of musicians have played and appreciated the world-renowned Pimentel guitars that capture the spirit and culture of New Mexico. •

#### MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 428. An act to survey the gradient boundary along the Red River in the States of Oklahoma and Texas, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 23. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

#### ENROLLED BILLS SIGNED

At 4:40 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 255. An act to authorize the National Science Foundation to support entrepreneurial programs for women.

H.R. 321. An act to inspire women to enter the aerospace field, including science, technology, engineering, and mathematics, through mentorship and outreach.

The enrolled bills were subsequently signed by the President pro tempore (Mr. HATCH).

#### 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. WHITEHOUSE (for himself, Mr. COTTON, Mr. NELSON, and Ms. MURKOWSKI):

S. 379. A bill to amend title II of the Social Security Act to eliminate the five month waiting period for disability insurance benefits under such title for individuals with amyotrophic lateral sclerosis; to the Committee on Finance.

By Mr. PETERS (for himself, Ms. STABENOW, Mr. DONNELLY, Mr. REED, Mrs. FEINSTEIN, and Mr. BROWN):

S. 380. A bill to amend the Securities Exchange Act of 1934 to require the disclosure of the total number of the domestic and foreign employees of a company, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRASSLEY (for himself, Mrs. ERNST, and Mr. LEAHY):

S. 381. A bill to repeal the Act entitled "An Act to confer jurisdiction on the State of Iowa over offenses committed by or against Indians on the Sac and Fox Indian Reservation"; to the Committee on Indian Affairs.

By Mr. MENENDEZ (for himself, Ms. MURKOWSKI, Mr. RUBIO, Ms. KLOBUCHAR, Mr. MARKEY, Mr. BLUMENTHAL, Mr. DAINES, Mr. BOOKER, Mr. FRANKEN, Mr. SCHUMER, Mr. MCCAIN, Mrs. GILLIBRAND, and Mr. TESTER):

S. 382. A bill to require the Secretary of Health and Human Services to develop a voluntary registry to collect data on cancer incidence among firefighters; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself, Mr. WARNER, Mrs. SHAHEEN, Mr. PORTMAN, and Mr. MERKLEY):

S. 383. A bill to coordinate the provision of energy retrofitting assistance to schools; to the Committee on Energy and Natural Resources.

By Mr. BLUNT (for himself, Mr. CARDIN, Mr. SCHUMER, and Mrs. GILLIBRAND):

S. 384. A bill to amend the Internal Revenue Code of 1986 to permanently extend the new markets tax credit, and for other purposes; to the Committee on Finance.

By Mr. PORTMAN (for himself, Mrs. SHAHEEN, Mr. COONS, Mr. WICKER, Mr. FRANKEN, Ms. COLLINS, Mr. MANCHIN, Mr. BENNET, Mr. WARNER, Ms. HEITKAMP, and Mr. HELLER):

S. 385. A bill to promote energy savings in residential buildings and industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LANKFORD (for himself, Mrs. FISCHER, Mr. CRUZ, and Mr. INHOFE):

S. 386. A bill to amend title 31, United States Code, to provide for transparency of payments made from the Judgment Fund; to the Committee on the Judiciary.

By Mr. PERDUE (for himself, Mr. DAINES, Mr. INHOFE, Mr. ENZI, Mr. BARRASSO, Mr. TILLIS, Mr. PAUL, Mr. ISAKSON, Mr. LEE, Mrs. ERNST, Mr. RUBIO, Mr. JOHNSON, Mr. KENNEDY, Mr. FLAKE, Mr. BOOZMAN, Mr. HOEVEN, and Mr. CRUZ):

S. 387. A bill to amend the Consumer Financial Protection Act of 2010 to subject the Bureau of Consumer Financial Protection to the regular appropriations process, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN:

S. 388. A bill for the relief of Maha Dakar; to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. GARDNER):

S. 389. A bill to amend the Internal Revenue Code of 1986 to ensure that kombucha is exempt from any excise taxes and regulations imposed on alcoholic beverages; to the Committee on Finance.

By Mr. HEINRICH (for himself and Mr. UDALL):

S. 390. A bill to withdraw certain Bureau of Land Management land from mineral development; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. 391. A bill to establish the African Burial Ground International Memorial Museum and Educational Center in New York, New York, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 392. A bill to establish the 400 years of African-American History Commission, and for other purposes; to the Committee on Energy and Natural Resources.

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

S. 393. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for employees who participate in qualified apprenticeship programs; to the Committee on Finance.

By Mr. ROUNDS (for himself, Mr. THUNE, Mr. INHOFE, Mr. CRAPO, Mr. LANKFORD, Mr. RUBIO, and Mr. GRAHAM):

S. 394. A bill to amend chapter 44 of title 18, United States Code, to provide that a member of the Armed Forces and the spouse of that member shall have the same rights regarding the receipt of firearms at the location of any duty station of the member; to the Committee on Armed Services.

By Mr. WYDEN:

S. 395. A bill to amend title 18, United States Code, to specify the circumstances in which a person may acquire geolocation information and for other purposes; to the Committee on the Judiciary.

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

S. 396. A bill to make technical amendments to certain marine fish conservation statutes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ISAKSON (for himself, Mr. WARNER, Mr. ALEXANDER, Mr. BROWN, Mr. SHELBY, and Mr. Kaine):

S. 397. A bill to amend title XVIII of the Social Security Act to ensure fairness in Medicare hospital payments by establishing a floor for the area wage index applied with respect to certain hospitals; to the Committee on Finance.

By Mr. NELSON:

S. 398. A bill to direct the Secretary of the Army to provide for modification of certain Federal water resources development projects on the Apalachicola, Chattahoochee, and Flint Rivers, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COONS (for himself, Ms. COLLINS, and Mr. DAINES):

S. 399. A bill to establish the United States Chief Manufacturing Officer in the Executive Office of the President with the responsibility of developing a national manufacturing strategy to revitalize the manufacturing sector, spur economic growth, and expand United States competitiveness, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CASEY:

S. 400. A bill to establish the Susquehanna National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CARDIN, and Mr. VAN HOLLEN):

S. 401. A bill to establish the Appalachian Forest National Heritage Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VAN HOLLEN (for himself and Mr. CARDIN):

S. 402. A bill to direct the Joint Committee on the Library to enter into an agreement with the Harriet Tubman Statue Commission of the State of Maryland for the acceptance of a statue of Harriet Tubman for display in a prominent location in the United States Capitol; to the Committee on Rules and Administration.

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

S. 403. A bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; to the Committee on Finance.

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

S. 404. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the process for inspections of device establishments for granting export certifications; to the Committee on Health, Education, Labor, and Pensions.

By Mr. Kaine (for himself, Mr. WARNER, Mr. CARDIN, and Mr. VAN HOLLEN):

S.J. Res. 22. A joint resolution granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MCCAIN:

S. Res. 61. A resolution calling on the Department of Defense, other elements of the Federal Government, and foreign governments to intensify efforts to investigate, recover, and identify all missing and unaccounted-for personnel of the United States; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 16

At the request of Mr. PAUL, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S. 16, a bill to require a full audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks by the Comptroller General of the United States, and for other purposes.

S. 26

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 26, a bill to amend the Ethics in Government Act of 1978 to require the disclosure of certain tax returns by Presidents and certain candidates for the office of the President, and for other purposes.

S. 27

At the request of Mr. CARDIN, the names of the Senator from Delaware (Mr. COONS) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of S. 27, a bill to establish an independent commission to examine and report on the facts regarding the extent of Russian official and unofficial cyber operations and other attempts to interfere in the 2016 United States national election, and for other purposes.

S. 66

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

S. 82

At the request of Mr. REED, the names of the Senator from Massachusetts (Ms. WARREN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 82, a bill to amend the Internal Revenue Code of 1986 to expand the denial of deduction for certain excessive employee remuneration, and for other purposes.

S. 94

At the request of Mr. CARDIN, the names of the Senator from Montana



(Mr. DAINES), the Senator from Indiana (Mr. DONNELLY), the Senator from Indiana (Mr. YOUNG), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Delaware (Mr. COONS) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 94, a bill to impose sanctions in response to cyber intrusions by the Government of the Russian Federation and other aggressive activities of the Russian Federation, and for other purposes.

S. 96

At the request of Ms. KLOBUCHAR, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Iowa (Mrs. ERNST) were added as cosponsors of S. 96, a bill to amend the Communications Act of 1934 to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications.

S. 184

At the request of Mr. WICKER, the name of the Senator from Alaska (Mr. SULLIVAN) was added as a cosponsor of S. 184, a bill to prohibit taxpayer funded abortions.

S. 223

At the request of Ms. COLLINS, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 223, a bill to provide immunity from suit for certain individuals who disclose potential examples of financial exploitation of senior citizens, and for other purposes.

S. 236

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 236, a bill to amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

S. 260

At the request of Mr. CORNYN, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. 260, a bill to repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board.

S. 324

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 324, a bill to amend title 38, United States Code, to improve the provision of adult day health care services for veterans.

S. 372

At the request of Mr. PORTMAN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 372, a bill to amend the Tariff Act of 1930 to ensure that merchandise arriving through the mail shall be subject to review by U.S. Customs and Border Protection and to require the provision of advance electronic information on shipments of mail to U.S. Customs and Border Protection and for other purposes.

S. 375

At the request of Mr. CORNYN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Nevada (Mr. HELLER) were added as cosponsors of S. 375, a bill to amend the Endangered Species Act of 1973 to establish a procedure for approval of certain settlements.

S. 376

At the request of Mr. CORNYN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 376, a bill to amend the Endangered Species Act of 1973 to require publication on the Internet of the basis for determinations that species are endangered species or threatened species, and for other purposes.

S.J. RES. 1

At the request of Mr. BOOZMAN, the name of the Senator from Georgia (Mr. PERDUE) was added as a cosponsor of S.J. Res. 1, a joint resolution approving the location of a memorial to commemorate and honor the members of the Armed Forces who served on active duty in support of Operation Desert Storm or Operation Desert Shield.

S. CON. RES. 6

At the request of Mr. BARRASSO, the names of the Senator from North Dakota (Mr. HOEVEN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. Con. Res. 6, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 55

At the request of Ms. MURKOWSKI, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. Res. 55, a resolution recognizing February 26, 2017, as the 100th anniversary of the establishment of Denali National Park and Preserve in the State of Alaska.

S. RES. 60

At the request of Mr. DAINES, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 60, a resolution designating May 5, 2017, as the "National Day of Awareness for Missing and Murdered Native Women and Girls".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 392. A bill to establish the 400 years of African-American History Commission, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KAINE. Mr. President, today I am reintroducing the 400 Years of African American History Commission Act.

We are 2 years away from a key anniversary in American history. August 2019 will mark 400 years since the first documented arrival of Africans who came to English America by way of Point Comfort, VA. This historic and

tragic moment, when "20 and odd" Africans, as it was recorded were the first recorded group of Africans to arrive involuntarily and were sold as involuntary laborers or indentured servants in the colonies. This indelible mark in American history should not pass without recognition.

During my tenure as Governor of Virginia, I presided over the 400th anniversary of the founding of Jamestown, VA, by the English colonists in 1604. Two years ago I attended the 450th anniversary of the founding of St. Augustine, FL, which celebrated Hispanic heritage. Both commemorations included activities sponsored by Federal commissions, which were voted on and passed by Congress.

Having commemorated the English and Spanish heritage of our founding, there is no reason it should be any different for the arrival and continuous presence of Africans and African Americans in the English settlements in 1619. There is no dispute that the beginning of African and African-American presence in what is now the United States was both heartbreaking and regrettable. Although in 1619 slavery was not yet an institution, the involuntary status of those first Africans was the impetus to slavery. Slavery as an institution broke up families, resulted in the deaths of thousands, and caused irreparable damage to our American psyche. And though we should never forget that period of stain on our history, slavery is not the only part of African-American history. I have had an opportunity to visit the National Museum of African American History and Culture. The museum makes a tremendous effort to tell the complete story of African Americans and it is important that we remember the whole story. African Americans have contributed to the economic, academic, social, cultural and moral well-being of this Nation. Their impact and influence has shaped this nation to what it is today.

So today, with my cosponsor Senator MARK WARNER, I reintroduce the 400 Years of African American History Commission Act, which would establish a commission that would plan programs and activities across the country to recognize the arrival and influence of African Americans since 1619. It is my hope the establishment of a "400th" commission would create an opportunity to bring continued national education about the significance the arrival of African Americans has made to the United States and the contributions that have been made since 1619. Additionally, the commission would create space to discuss race relations in America and focus on dismantling the institutional systems that have adversely hindered African American progress.

By Mr. WYDEN:

S. 395. A bill to amend title 18, United States Code, to specify the circumstances in which a person may acquire geolocation information and for

other purposes; to the Committee on the Judiciary.

Mr. WYDEN. Mr. President, today I, along with my colleagues Congressmen CHAFFETZ from Utah and CONYERS from Michigan, am introducing the Geolocation Privacy and Surveillance Act, a bill that protects Americans from seeing their phones and other devices turned into location trackers without so much as a warrant or a warning. While law enforcement agencies can and have obtained, and should obtain, probable cause search warrants from a neutral judge authorizing them to track the location of Americans, in many other cases, government agencies obtain sensitive location information without a warrant. My colleagues, Mr. CHAFFETZ and CONYERS, and I intend to fix that.

This is a situation where government agencies' use of new technology has gotten ahead of the laws in ways that would surprise many Americans. Federal, State, and local agencies routinely track Americans' locations through a variety of methods, most of the time without people knowing they are being tracked. Some tracking demands go directly from the government to phone companies. In the first 6 months of 2016, law enforcement agencies submitted at least 86,000 demands to telephone companies for subscriber location data. Some of these demands were for the records of hundreds or even thousands of customers at a time.

Law enforcement agencies also regularly track cell phones with the use of a surveillance technology known as a cell site simulator or Stingray. A recent bipartisan report by the Committee on Oversight and Government Reform in the House of Representatives found that the Departments of Justice and Homeland Security have spent more than \$95 million to buy over 430 Stingrays. Although Federal agencies now obtain warrants before using this technology, many State and local agencies do not.

There is currently no uniform legal standard that regulates how Federal, State, and local law enforcement agencies are able to spy on the location of Americans. Instead, there exists a confusing patchwork of State laws, policies adopted by law enforcement agencies, and legal precedents set by Federal and State courts. As a result, Americans in one part of the country may enjoy less privacy, based on the policies adopted by their local police department, privacy laws passed by their State legislatures, or the willingness of their phone provider to push back in court, than Americans who happen to live in a privacy-superior jurisdiction. This patchwork quilt of rules and regulations has led to confusion among law enforcement, prosecutors, and service providers, who waste valuable time and resources litigating and appealing what should be clear-cut rules—clear-cut rules that start from the premise that privacy is an inviolable right, not a convenience granted by local law enforcement.

Under President Obama, there was a policy in place that required Federal law enforcement officers to get a probable cause warrant before tracking an American's location. Under the current administration, we do not yet know if this policy will remain, which makes this bill even more critical.

This bill has three main components.

First, it requires the government to show probable cause and get a warrant before acquiring the geolocation information of a U.S. person, while setting out clear exceptions such as emergency or national security situations or cases of theft or fraud. This probable cause requirement would apply to all law enforcement acquisitions of the geolocation information of individual Americans without their knowledge. This requirement will include indirect location information acquisition from commercial service providers and direct acquisitions using Stingrays and similar devices, including tracking devices covertly installed by the government. This bill would regulate both real-time tracking of a person's movements, as well as the acquisition of records of past movements.

Second, the bill creates criminal penalties for secretly using an electronic device to track a person's movements that parallel those for wiretapping. Currently, if a woman's ex-husband taps her phone, he is breaking the law. This legislation would treat hacking her cell phone to track her movements as a similar offense.

Finally, it prohibits commercial service providers from sharing customers' geolocation information with outside entities without customer consent.

Passage of this bill would provide much needed privacy protections to Americans and ensure that location data is adequately protected from warrantless surveillance by law enforcement agencies.

I thank my colleagues CHAFFETZ and CONYERS for their efforts on this bill, and I hope the Judiciary Committee will consider our proposal quickly.

By Mr. Kaine (for himself, Mr. WARNER, Mr. CARDIN, and Mr. VAN HOLLEN):

S.J. Res. 22. A joint resolution granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission; to the Committee on the Judiciary.

Mr. Kaine. Mr. President, the National Capital Region relies on DC Metrorail. Hundreds of thousands of commuters take it every day, including the Federal workforce. Visitors use it when they come to our Nation's Capital on vacations, school trips, or events of national significance. Yet for too long, critical safety maintenance has been neglected, at the cost of countless lost hours and frustration for riders, and tragically, several fatalities.

That is why I and my colleagues from Virginia and Maryland—Senators MARK WARNER, BEN CARDIN, and CHRIS VAN HOLLEN—and our bipartisan House colleagues are today introducing this compact creating the new Metro Safety Commission. This measure is introduced in concert with the Virginia and Maryland General Assemblies and the Council of the District of Columbia, to build momentum to encourage all three jurisdictions to enact this compact as quickly as possible, to get Metro back to safe reliable operation.

After fatal incidents on Metrorail in 2009 and 2015, the Federal Transit Administration took the unprecedented step of assuming direct safety oversight over the Washington Metropolitan Area Transit Authority WMATA, stating that it would not return control until it certified that a robust safety oversight body was in place. The safety commission envisioned by this compact is that body.

There are many WMATA matters on which different stakeholders have different opinions, but everyone agrees that safety must be our top priority. Upon enactment of this compact by the three jurisdictions, I urge my colleagues to take swift action to approve this measure so that daily commuters and visitors to Washington, DC, can regain confidence that Metro will take them safely to their destinations.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 61—CALLING ON THE DEPARTMENT OF DEFENSE, OTHER ELEMENTS OF THE FEDERAL GOVERNMENT, AND FOREIGN GOVERNMENTS TO INTENSIFY EFFORTS TO INVESTIGATE, RECOVER, AND IDENTIFY ALL MISSING AND UNACCOUNTED-FOR PERSONNEL OF THE UNITED STATES

Mr. MCCAIN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 61

Whereas more than 83,000 personnel of the United States are still unaccounted-for around the world from past wars and conflicts;

Whereas, though recognizing that an estimated 50,000 of these World War II personnel, were lost deep at sea and are unlikely ever to be recovered, thousands of families and friends have waited decades for the accounting of their loved ones and comrades in arms;

Whereas the families of these brave Americans deserve our Nation's best efforts to achieve the fullest possible accounting for their missing loved ones;

Whereas the National League of POW/MIA Families, and their iconic POW/MIA flag, pioneered the accounting effort since 1970 and has been joined in this humanitarian quest for answers by the Korean War, Cold War and World War II families, fully supported by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, Jewish War Veterans, AMVETS, Vietnam Veterans of America, Special Forces Association, Special Operations Association, Rolling

Thunder, and other more recently formed groups, and thousands of families are yearning and advocating for answers concerning the fates of their loved ones and comrades in arms;

Whereas the mission of the Defense POW/MIA Accounting Agency of the Department of Defense is to provide the fullest possible accounting for missing members of the Armed Forces of the United States, designated civilians of the Department, and other designated personnel; and

Whereas the recovery and investigation teams of the Department of Defense deploy to countries around the world to account as fully as possible for these missing and otherwise unaccounted-for personnel of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) calls upon the Defense POW/MIA Accounting Agency and other elements of the Department of Defense, other elements of the Federal Government, and all foreign governments to intensify efforts to investigate, recover, identify and account as fully as possible for all missing and unaccounted-for personnel of the United States around the world; and

(2) calls upon all foreign governments with information on missing personnel of the United States, or with missing personnel of the United States within their territories, to cooperate fully with the Government of the United States to provide the fullest possible accounting for all missing personnel of the United States.

#### AUTHORITY FOR COMMITTEES TO MEET

Mr. ROUNDS. Mr. President, I have six 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 au-

thorized to meet during today's session of the Senate:

#### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to hold a meeting during the session of the Senate on Wednesday, February 15, 2017, at 2:30 p.m. in room 253 of the Russell Senate Office Building. The committee will hold a subcommittee hearing on "Moving America: Stakeholder Perspectives on Our Multimodal Transportation System."

#### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Committee on Environment and Public Works is authorized to meet during the session of the Senate on Wednesday, February 15, 2017, at 10 a.m., in room 406 of the Dirksen Senate Office Building, to conduct a hearing entitled "Oversight: Modernization of the Endangered Species Act."

#### COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations is authorized to meet during the session of the Senate on Wednesday, February 15, 2017, at 10 a.m., to hold a hearing entitled "Ending Modern Slavery: Building on Success."

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

The Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Wednesday, February 15, 2017, at 2:45 p.m. in order to conduct a hearing titled "High Risk: Government Operations Susceptible to Waste, Fraud, and Mismanagement."

#### SPECIAL COMMITTEE ON AGING

The Special Committee on Aging is authorized to meet during the session of the Senate on Wednesday, February

15, 2017, to conduct a hearing entitled "Stopping Senior Scams: Developments in Financial Fraud Affecting Seniors". The committee will meet in room 562 of the Dirksen Senate Office Building beginning at 2:30 p.m.

#### SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

The Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, February 15, 2017, at 10 a.m.

#### PRIVILEGES OF THE FLOOR

Mr. CARPER. Mr. President, I ask unanimous consent that Mike Boettcher of my personal staff have floor privileges through December 31, 2017, and Andrew J. Wishnia and Ann Marie Chaney of my Environment and Public Works Committee staff have floor privileges for the duration of this Congress.

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

Mr. MERKLEY. Mr. President, I ask unanimous consent that my intern, Josh Lind, be granted privileges of the floor for the balance of the day.

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

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 9:16 p.m., adjourned until Thursday, February 16, 2017, at 10 a.m.