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Senate

The Senate met at 2 p.m. and was called to order by the Honorable JOHN BOOZMAN, a Senator from the State of Arkansas.

PRAYER

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

Let us pray.

Infinite Spirit, Creator of Heaven and Earth, the sea, and all that lives in it, thank You for the gift of another day. We praise You that You are the same yesterday, today, and forever. Remind us of the foolishness of seeking security apart from You.

Bless our lawmakers. Protect them in their work as You give them Your peace. Be for them a light in the darkness and a shelter from life's storms. Lord, give them the wisdom to make decisions that will bring glory and honor to Your Name.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The senior assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 28, 2018.

To the Senate:

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

ORRIN G. HATCH,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

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

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

The senior assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF BRETT KAVANAUGH

Mrs. MURRAY. Mr. President, like millions of people across the country, I watched the hearing yesterday with a mix of so many strong emotions.

First, I watched Dr. Ford with tears in my eyes. She was so brave, so compelling, so real. The memories that she recounted—the memories that she will never forget—were heartbreaking: the living room, the stairs, the bedroom, the music turned up loud, the bed, Brett Kavanaugh drunk and on top of her, the feeling she had when he covered her mouth to stop her from screaming, the raucous laughter between Brett Kavanaugh and Mark Judge.

She remembered the way she felt it then and told it now: two boys laughing and having a good time while a scared 15-year-old girl lay pinned down on a bed, worried that she may die; the bathroom, listening for Brett and Mark to leave, hearing them bounce off the walls as they went back downstairs; leaving the house; the sense of relief that she escaped; and something anyone who has been a 15-year-old girl can understand, not wanting to tell her parents that she had been at a house with no adults, older boys, and beer. It was gutting.

Dr. Ford spoke for herself, but she was channeling the voice of millions of women and survivors across the country who are too often ignored, interrupted, bullied, or swept aside.

She was an inspiration, and I hope every one of my colleagues watched her speak and answer questions. She made it clear she was not there because she wanted to be but because she felt she had to be. She shared her story not because she wanted to create a spectacle or embarrass anyone but because she felt it was her civic duty to share what she knew about Judge Kavanaugh with the people making the decision about whether or not he should be on our Nation's highest Court.

The Republicans on that committee were too afraid to ask her anything themselves, but she did an amazing job keeping her composure under cross-examination by the prosecutor Republicans hired to question Dr. Ford on their behalf, and Dr. Ford made it clear over and over, politely but firmly, that she welcomed an investigation. She opened up herself to questions and scrutiny. She took a polygraph.

She remembered some details that further investigation could help expand

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

on, like seeing Mark Judge at the supermarket a few weeks later, and she seemed not to be able to understand why nobody was digging into these details that could help uncover even more.

She said she came to be helpful. She wants to be more helpful. She did her job as a U.S. citizen, and she was simply asking for Senators to do theirs.

Then, I watched Judge Kavanaugh, and, frankly, I was appalled and dismayed by the rage on his face; the sense of entitlement he displayed; refusing to answer questions, sneering at Senators while he demanded they answer his questions; the outrage that he was even being questioned about an issue like this after all he has done for his country; not an ounce of contrition; not a modicum of shame; the attempts over and over to turn this away from the substance, the allegations from women against him, and the facts that could shine a light on them, and toward attacks on the process and a political party; the continued falsehoods and evasions and things he said that just are not credible, from his claims that he never got blackout drunk and had memory lapses during a night of drinking, despite everything we have heard from people who know him and everything we have heard from him and about him in the past about his younger days, to his claim that he and Dr. Ford didn't ''travel in the same social circles,'' when we know that is just not true—he has said before that he was good friends with Holton-Arms girls, and we know Dr. Ford dated a good friend of Judge Kavanaugh, who introduced the two of them—to his absolutely false claims that the committee had already received all the evidence it needs, which as a judge, he knows is simply not the case, and on and on.

But the most striking thing to me was this—and this is something I hope every Senator pays close attention to because I know it is what people across the country saw vividly and repeatedly—and that is the fact that Judge Kavanaugh so clearly does not want an investigation. He does not want the facts to come out. He doesn't want other witnesses to be brought in who, if he is telling the truth, could corroborate his story and help clear his name.

He certainly doesn't want anyone to hear from the other two women who have come forward with their experiences regarding him and sexual assault and who are willing to come and testify under oath.

He wants to rush through this as quickly as he can with as little information as possible coming out. Is that how someone acts if they truly have nothing to hide? Is this how someone behaves if they truly want to clear their good name? Is this what someone truly innocent of everything he is being accused of would do?

I want to close by setting aside what I thought of the hearing yesterday for just a minute. I believe Dr. Ford. I thought she was telling the truth. But I want to set that aside to make one more point because maybe some of my colleagues watched that hearing yesterday and didn't see it the same way I did. Maybe they saw that hearing and thought Dr. Ford was credible, and they also thought Judge Kavanaugh was credible. Maybe they thought: This is a he said, she said, and I just don't know whom or what to believe.

Here is my message to those colleagues of mine. Yesterday's hearing does not have to be the final word. There is absolutely no rush—none, zero. We have an opportunity to take a breath and slow down and let this process work the way it is supposed to.

The 11 Republicans on the Judiciary Committee may have scrambled to rush this through their phase, but we do not have to follow suit here in the Senate. We can have the FBI investigation. We can continue our own investigations. We can bring in additional, relevant witnesses in the most appropriate ways or hold additional hearings.

I know we all want this to be over. Trust me, I wish we didn't have to go through this, but we simply cannot allow a Supreme Court Justice to be jammed through like this right now. It would be a disgrace. It would damage the integrity of the Supreme Court, and it would shred whatever integrity we have left here in the Senate.

So I say to those colleagues: Even if you hate how this process has gone so far, even if you wish this had been done differently and that the information had come out about these allegations sooner, even if you think this was bungled completely, even if you want to point fingers and blame Democrats for that—fine, but we are right here, right now. We are facing one of our most important jobs as Senators, laid out in article II, section 2 of our Constitution, to provide advice and consent on Supreme Court nominations.

We can litigate how this went later. I am sure there are ways it could have gone better. We can figure that out. We should figure that out so we can do better next time, but we should not—we cannot—let anger and pique over process and politics cloud what is clearly the right thing to do here.

I hear there are conversations going on in the Judiciary Committee right now about slowing down and starting investigations. I am hopeful that those end up leading us to being able to do our jobs. No one should want those allegations hanging out there or should want the investigations to happen and information to come out while he is on the Court.

Let's slow down. Let's learn more. Let's not put a man on the Supreme Court with these allegations swirling around him while we still have the opportunity to clear this up and get it right.

Finally, I want to say one more thing right now to women and survivors who are angry, who are dispirited, who have reached out to me and told me they are shocked; they are crying; they are in disbelief. To them, I say we all have a right to these tears, but we all have a duty not to give up. I am not giving up. I am not going to give up this fight of making sure that women who bravely come forward are not ignored, swept under the rug, or silenced by powerful men. I know that I stand with millions and millions of women and men across the country who are watching the U.S. Senate very closely right now and that they are not going to give up either.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. ERNST). Without objection, it is so ordered.

NOMINATION OF BRETT KAVANAUGH

Ms. HIRONO. Madam President, these are the remarks I would have given at this morning's Judiciary Committee markup after the perfunctory and dismissive way the chairman treated the minority members of the Judiciary Committee. I walked out in protest. Here are the remarks I would have given at the committee markup.

I am in disbelief that we are here today voting on Brett Kavanaugh's nomination to the Supreme Court. Outrageous does not begin to describe the present circumstances. Yesterday we heard from Dr. Christine Blasey Ford, who spoke with genuine and raw emotional power about being sexually assaulted by Brett Kavanaugh. Even though it was more than 30 years ago, her memory of the assault was clear and vivid. This kind of recall is typical of sexual assault survivors. She was sincere and authentic. She was 100 percent credible, and I believe her.

By contrast, Brett Kavanaugh came to this committee and refused to give us straight answers. He would not call for an FBI investigation. He repeatedly stated that the other people who were at the gathering where Dr. Ford was attacked had ''rebutted her testimony.'' That is not true. His alleged accomplice in the attack, Mark Judge, claimed he didn't remember—a far cry from rebutting her statement. He claimed he didn't remember, refused to testify, and then went into hiding. Patrick Smyth and Leland Keyser said they simply don't remember—again, hardly a rebuttal.

Dr. Ford said yesterday:

> I don't expect that P.J. and Leland would remember this evening. It was a very unremarkable party. It was not one of their more notorious parties, because nothing remarkable happened to them that evening.

In fact, even though she doesn't remember, Leland Keyser said she believes Dr. Ford's account.

In addition to making misleading statements—which is a pattern with Judge Kavanaugh—he accused Democratic Senators of coordinating a plot to sabotage his nomination. Clearly, he was speaking to an audience of one: President Trump. A nominee for the Supreme Court so rattled that he would buy into a vast conspiracy theory is astounding and dangerous. Let's not forget his exact words. Judge Kavanaugh said:

> This whole two-week effort has been a calculated and orchestrated political hit fueled with apparent pent-up anger about President Trump and the 2016 election, fear that has been unfairly stoked about my judicial record, revenge on behalf of the Clintons, and millions of dollars in money from outside left-wing opposition groups.

With that nakedly political screed, Brett Kavanaugh showed us who he really is: a partisan political operative with an agenda—the very worry that kept him from confirmation to the DC Circuit for 3 years. His own words reinforced a concern that I and many of us here have that he cannot be a fair and impartial judge.

Setting aside the unvarnished political view—from a potential Supreme Court Justice, no less—the crux of the matter before us today is whether Dr. Ford was credible when she said that she is 100 percent sure that Brett Kavanaugh is the person who sexually assaulted her. On that issue, Brett Kavanaugh admitted, even without watching her testimony, that Dr. Ford did not play a part and was not part of any imagined partisan plot. So what we are left with is his own recognition that Dr. Ford has no political motive and no reason to lie. I challenge anyone who watched her testimony to claim that she did not tell us the truth.

Dr. Ford wasn't the only woman to come forward with an account of sexual misconduct against the nominee. Two other women have provided credible accounts that deserve real investigation. But whether it is one woman or three women, my Republican colleagues are letting nothing stop them from plowing through to get Brett Kavanaugh to the Supreme Court as soon as possible. Even before the committee had a chance to hear from Dr. Ford, Chairman GRASSLEY had already scheduled today's vote.

By voting to support this nominee, Republican colleagues are sending a message loud and clear: Sexual assault survivors should not come forward because we are not going to listen to you. They will not be believed, and their lives will be up-ended in the process. That is exactly what happened to Dr. Ford.

As far as I am concerned, there was never a serious effort by the committee to get to the truth. Today's vote signals to the men and boys in America that you can demean and assault women—especially if you are in a position of power and influence. There will be no consequences. It won't even prevent you from becoming a Supreme Court Justice.

Yesterday, accusations flew from the other side of the aisle about deliberate efforts to make up accusations and undermine Judge Kavanaugh's nomination, but Democrats didn't need to manufacture additional reasons to oppose Judge Kavanaugh's nomination. As I have maintained before, his record demonstrates a pattern of misstating the facts. He wasn't candid yesterday. He wasn't candid in his testimony to the committee when he testified at his 2004 and 2006 confirmation hearings or when he testified at his confirmation hearing for this nomination in 2018.

I also found his candor lacking in the judicial opinions and legal arguments he authored. For example, as my colleagues have talked about in the past, Judge Kavanaugh was not honest with the committee in 2004 and 2006 when asked about matters that he worked on, and his emails from the White House show that he was not honest about his awareness of receiving stolen documents from Manny Miranda. In a case I am familiar with—Rice v. Cayetano—he demonstrated what could only be called a deliberate misstatement of the facts that he presented to the U.S. Supreme Court. He had to have known that what he wrote about the politics and culture of Native Hawaiians was not true. He filed an amicus brief in that case, and at his hearing a few weeks ago, Judge Kavanaugh misstated the holdings of Rice and refused to correct his misstatement when I gave him a chance to clarify.

I will say that I am one of the few people in the Senate who attended the oral argument in Rice. I know what the Supreme Court based its decision on, and he totally misstated the Supreme Court's decision.

Advocates for our Native communities are stepping up and taking notice. The Council for Native Hawaiian Advancement and the Alaska Federation of Natives issued statements that strongly urge the Senate to reject the nomination of Brett Kavanaugh. They and other groups representing indigenous peoples have come forward to explain how Judge Kavanaugh's views of the rights of indigenous peoples are deeply flawed. These are the kinds of attitudes that he expressed in his amicus brief in Rice v. Cayetano.

Madam President, I ask unanimous consent that the following statements in opposition of Judge Kavanaugh's nomination or that criticize his views of indigenous people be printed in the RECORD. They are from the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the Alaska Federation of Natives.

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

STATE OF HAWAII,
DEPARTMENT OF HAWAII HOME LANDS,
September 18, 2018.

Statement of Hawaiian Homes Commission Chairman Jobie Masagatani on the Nomination of Brett Kavanaugh to Serve as a Justice on the U.S. Supreme Court

ALOHA CHAIRMAN GRASSLEY AND RANKING MEMBER FEINSTEIN: Having reviewed his writings and his statements in public proceedings, we find that Judge Kavanaugh neglected to recognize the history of actions by the United States government that has clearly established a trust responsibility not only on the part of the United States, but also the State of Hawaii for the lands that were set aside under Federal law in 1921 to provide for a permanent homeland for native Hawaiians (Hawaiian Homes Commission Act of 1920) and for the betterment of the conditions of native Hawaiians (Hawaii Admissions Act of 1959).

The Hawaiian Homes Commission Act set aside approximately 203,500 acres of land in what was then a Territory of the United States, the Territory of Hawaii, to assure that the indigenous, native people of Hawaii could be returned to their lands.

In the ensuing years, in the exercise of its constitutional authority, the U.S. Congress enacted more than 160 Federal laws designed to address the conditions of native Hawaiians. Additionally, upon its admission into the Union of States in 1959, the United States and the State of Hawaii agreed that the provisions of the Constitution of the State of Hawaii should reflect their respective responsibilities, including trust responsibilities, for the lands and resources designated to provide for the betterment of the conditions of native Hawaiians.

The lands and resources authorized under Federal law to be reserved for native Hawaiians in 1921 are today administered by the Hawaiian Homes Commission and the Department of Hawaiian Home Lands.

Our fiduciary duties and responsibilities to the beneficiaries of the Hawaiian Homes Commission Act are of paramount importance to existing and future generations of the indigenous, native people of Hawaii, to the State of Hawaii, and to the United States.

We cannot embrace nor endorse the views of those, like Judge Kavanaugh, who would deny our history, the Federal and State laws which have been enacted on the foundation of that history, including the right of the indigenous, native people of Hawaii to exercise self-determination under Federal law and policy.

STATE OF HAWAI'I,
OFFICE OF HAWAIIAN AFFAIRS,
September 24, 2018.

Re Nomination of Judge Brett Kavanaugh to the U.S. Supreme Court.

DEAR CHAIRMAN GRASSLEY AND RANKING MEMBER FEINSTEIN: The Office of Hawaiian Affairs (OHA) greatly appreciates this opportunity to provide comments regarding the nomination of Judge Brett Kavanaugh to be an Associate Justice of the United States Supreme Court. In particular, given that Supreme Court precedent pertaining to OHA has become the subject of questions during Judge Kavanaugh's nomination hearing, our agency is compelled to clarify the record as it pertains to our organization, our work to better the conditions of Native Hawaiians, and the rights and status of our beneficiaries as Indigenous people.

As Judiciary Committee Member Mazie K. Hirono indicated during Judge Kavanaugh's nomination hearing, Native Hawaiians are the original, first people of the Hawaiian Archipelago, who exercised sovereignty for at

least a thousand years prior to recorded contact with the Western world. Congress has acknowledged that ''. . . . prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion.'' The Native Hawaiian people established and maintained the Kingdom of Hawai'i, first as a united monarchical government, and later as a constitutional monarchy, at all times under the leadership of a Native Hawaiian head of state.

Judge Kavanaugh's description of the Rice decision may have left some Committee Members and observers with another impression. Senator Hirono asked the nominee about an amicus brief he submitted in Rice, as well as an op-ed he wrote for The Wall Street Journal, in which he argued that OHA's very purpose was inconsistent with the principles and language of the U.S. Constitution. When asked to explain these views, Judge Kavanaugh stated that by a vote of 7–2, the majority of the U.S. Supreme Court had agreed with him, and that the Court found violations of both the Fourteenth and Fifteenth Amendments.

This is erroneous.

As stated earlier, the majority's decision was limited to the manner in which OHA's trustees were elected under the Fifteenth Amendment. To quote U.S. Supreme Court Justice John Roberts, then an attorney representing the State of Hawai'i in the Rice case, ''. . . the majority's opinion was very narrowly written and expressly did not call into question the Office of Hawaiian Affairs, the public trust for the benefit of Hawaiians and native Hawaiians, but only the particular voting mechanism by which the trustees are selected.'' In limiting its holding to OHA's means of electing trustees, the majority chose not to adopt arguments and conclusions made by then-practicing attorney Brett Kavanaugh, with respect to OHA's purpose and mission.

The extreme nature of Judge Kavanaugh's arguments, both his examples and his conclusions, may have played a role in the majority's failure to incorporate them in Rice. For example, he compared OHA's mission of serving Hawaii's Indigenous people to an interracial marriage ban to maintain white supremacy. He argued that allowing Native Hawaiians to elect their own trustees to manage their trust ''. . . could usher in an extraordinary racial patronage and spoils system'' of national consequence. Little explanation is given as to why treatment of the Indigenous people of Hawai'i in a manner similar to the treatment of other Indigenous people in the United States would have such dramatic consequences. At the time of his writing, Judge Kavanaugh may not have been familiar with Congress's clear legislative understanding that its relationship with Native Hawaiians is based on its recognition of Native Hawaiians as an Indigenous people and not based on race.

Through the process of the Committee's review of a portion of Judge Kavanaugh's writings during his time with the Bush Administration, we learned that he continued to hold and advance extreme views against Native Hawaiian rights after Rice. Disregarding the Court's decision not to adopt his arguments against the constitutionality of Native Hawaiian programs, Judge Kavanaugh offered the same arguments as legal advice when reviewing administration testimony on legislation. Given his reported acknowledgement of his lack of exposure to Indigenous people's law, it is concerning that he has held so tightly to arguments hostile to Native Hawaiians.

His past actions and the recent nomination hearing leave OHA with many doubts. We sincerely hope that if a case concerning Native Hawaiian rights comes before Judge Kavanaugh's court, be it the D.C. Circuit or the U.S. Supreme Court, he will look more closely at the facts before the court. Facts that include the actions that Congress, the Executive, and the State of Hawai'i have all taken, within the framework of the U.S. Constitution, in recognizing the unique status of Native Hawaiians. During his hearing, Judge Kavanaugh acknowledged Congress's ''substantial'' authority to deal with matters concerning Native people, though he offered few specifics beyond that statement. Judge Kavanaugh may find it interesting that in the years following Rice, Congress and the Executive have continued to pass legislation and establish programs to benefit Native Hawaiians, regularly with the acknowledgement of the legal and political relationship OHA has articulated throughout this letter.

In closing, OHA hopes that this letter has brought some clarity to questions raised as part of the process of considering Judge Kavanaugh's nomination. OHA hopes that the Committee understands the need we feel to clarify the record about Rice, and to address certain arguments espoused by Judge Kavanaugh prior to his taking the bench, which are not only inaccurate, but threaten the rights and resources of the beneficiaries that OHA exists to serve. Until and unless Judge Kavanaugh is able to correct the aforementioned misunderstandings and misconceptions, should a case involving the rights or political status of Native Hawaiians come before him, perhaps a recusal would be in order. Finally, OHA wishes to bring to the Committee's attention concerns voiced by American Indian and Alaska Native groups, who share our concerns with Judge Kavanaugh's record on Native law.

Sincerely,

COLETTE Y. MACHADO,
OHA Board of Trustees Chair.

[From the Alaska Federation of Natives]

AFN OPPOSES KAVANAUGH APPOINTMENT

The Alaska Federation of Natives is the oldest and largest Native organization in Alaska. Our membership includes 186 federally recognized Indian tribes, 177 for-profit village corporations, 12 for-profit regional corporations, 12 not-for-profit regional organizations, and a number of tribal consortia that compact and contract to run federal and state programs. For over 50 years, AFN has been the principal forum and voice for Alaska Natives in addressing critical issues of law and policy, including the nomination of U S. Supreme Court justices.

The federal judicial appointment and confirmation process is designed to thoroughly vet nominees. As such, we did not immediately weigh in on President Trump's choice to replace retiring Justice Anthony Kennedy. However, the questions and colloquies that came out of Judge Brett Kavanaugh's Senate Judiciary hearings last week has necessitated us taking a position. AFN joins our colleagues and friends across Indian country in strongly opposing Judge Kavanaugh for the Supreme Court because of, among other things, his views on the rights of Native peoples.

Judge Kavanaugh's Position on the Indian Commerce Clause is Erroneous. Congress' plenary power over Indian affairs is grounded in the Commerce Clause of the U.S. Constitution. The clause gives the Congress the power to ''regulate commerce with foreign nations, and among the several states, and with the Indian tribes.'' Judge Kavanaugh concedes this point. However, like Justice Clarence Thomas—the most senior justice on the Supreme Court, he challenges the clause's application to affairs beyond trade. This impacts Alaska Native tribes, corporations, organizations and consortia because their dealings with Congress presently extends to a host of federal programs concerning their members, resources and governments.

In the 2013 Adoptive Couple v. Baby Girl decision, Justice Thomas contested Congress' authority to enact the Indian Child Welfare Act, reasoning the Indian Commerce Clause only provides federal authority over Indian trade. Because most federal laws concerning Indians lack a nexus to Justice Thomas's narrow definition of trade, they would unlikely survive the scrutiny he urges. The result would be a wholesale reshaping of the body of law and policy that has governed Indian affairs for the past century and a half.

Legal observers tracking Judge Kavanaugh believe he is further to the right than Chief Justice John Roberts. Thus, he may agree with Justice Thomas that Congress only has plenary power to regulate direct commerce with Indian tribes, nothing more. Confirming a nominee with this viewpoint would be disastrous for Alaska, and would roll back the gains of self-determination and usher back in the losses of termination.

Judge Kavanaugh's View of the Special Trust Responsibility is Misguided. The federal government has a special trust relationship with federally recognized Indian tribes. The relationship commands the highest moral and legal obligations, and is rooted in early federal-tribal treaties, the U.S. Constitution, federal statutes, and opinions of the U.S. Supreme Court. Judge Kavanaugh's writings demonstrate a limited view of the federal government's power to deal with Native peoples under this relationship. Specifically, he would only extend the special trust relationship to Indian tribes that have with his preferred history of federal dealings, including territorial removal and isolation. This, too, impacts Alaska since Alaska Native have a unique federal experience and few reservations were established.

During his Senate Judiciary Committee hearing, Judge Cavanaugh questioned the legitimacy of Native Hawaiian recognition, citing their different treatment by the federal government, and the fact that they do not live on reservations or enclaves. If he remains of the view that the special trust relationship only extends to Indian tribes with his brand of federal history, including territorial removal and isolation, he could very well rule that Congress lacks the authority to deal with Alaska Natives. This thinking could overturn much, if not all, of the Alaska Native Claims Settlement Act, as well as all other federal legislation and regulations addressing Alaska Natives, tribes, corporations and organizations. To confirm a nominee who does not understand or appreciate the position of Native Hawaiians, and who could weaken the special trust relationship Alaska Natives share with the federal government, would be imprudent.

Judge Kavanaugh's Assessment of the Political Classification Doctrine is Troubling. The political classification doctrine announced in the 1974 Morton v. Mancari decision, that focusses on and Indian person's membership in a federally recognized tribe rather than his or her ancestry to avoid strict scrutiny review of federal legislation and regulation that benefits Indians, would be extremely vulnerable if Judge Kavanaugh were to ascend to the Court. For the reasons outlined above, he would likely align himself with Justice Thomas on the issue, and the two of them would likely work to persuade their fellow justices that the relationship between an Indian person's status politically and their race is open for interpretation. Judge Kavanaugh does not accept this well-

established legal doctrine. Confirming a nominee who is unable to grasp the necessity of federal programs based on the political classification doctrine, and articulate why they must be protected, would be unwise.

AFN strongly urges the U.S. Senate to vote against Judge Kavanaugh. The documents that have been released so far in relation to his nomination demonstrate how troubling his confirmation would be for Native peoples, particularly Alaska Natives and Native Hawaiians.

Ms. HIRONO. It is deeply troubling to have a Supreme Court nominee for a lifetime position who isn't candid with us about the facts or straight with us about the law.

In Garza v. Hargan, he did it again. In that 2017 case, he wrote a dissent in which he misapplied the law and treated the case as if it were about parental consent. It was not. The case, which was about whether a 17-year-old undocumented young woman could be released from immigration custody to have an abortion, did not involve the question of parental consent. But he sat there at his nomination hearing, and when I asked him about it, he said that was a case involving parental consent—a total misstatement of the issue in the case. In that case, this young woman had already received a proper judicial bypass from a Texas judge that allowed her to make her own decisions. So that had nothing to do with having to require parental consent; she had already overcome that. But that wasn't good enough for Judge Kavanaugh. He inserted his own views about legal issues not even present in the case. This is just one example of his outcome-driven approach to important cases before him.

At the hearing, I also asked him about the pattern that was revealed in his numerous dissents. In several of those cases, his own colleagues called him out for misrepresenting the facts and the law. Just last year, in United States v. Anthem, the majority said that Judge Kavanaugh ''applies the law as he wishes it were, not as it currently is.'' In a 2008 case, Agri Processor v. NLRB, the majority wrote that Judge Kavanaugh's dissent ''creates its own rule.'' Instead of following Supreme Court rules, they said that Judge Kavanaugh's dissent abandons the text of the applicable law altogether. It is pretty telling when your own colleagues on the court feel so strongly about your dissent that they will actually call you out on it.

When this nomination first came to the Senate, I was skeptical. I said that if the President's nominee to the Supreme Court is anything like the nominees he has been sending to the lower Federal courts, I expect we will see a nominee handpicked by the Federalist Society and the Heritage Foundation intent on carrying out their rightwing ideology supported by the President. It turned out to be much worse than I imagined. Not only was the nominee someone who fit that description; it became clear that he was someone who lacked candor, credibility, and character. This has been displayed at every turn.

After hearing from Dr. Ford and Brett Kavanaugh yesterday, the editors of America Magazine—a well-respected Jesuit weekly—withdrew. They originally endorsed Judge Kavanaugh. This group withdrew their endorsement of Judge Kavanaugh. They said:

While we previously endorsed the nomination of Judge Kavanaugh on the basis of his legal credentials and his reputation as a committed textualist, it is now clear that the nomination should be withdrawn.

If Senate Republicans proceed with his nomination, they will be prioritizing policy aims over a woman's report of an assault.

Madam President, I ask unanimous consent that a portion of a copy of this article be printed in the RECORD.

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

[From America Magazine, Sept. 27, 2018]

THE EDITORS: IT IS TIME FOR THE KAVANAUGH NOMINATION TO BE WITHDRAWN

(By The Editors)

Dr. Christine Blasey Ford's testimony before the Senate Judiciary Committee today clearly demonstrated both the seriousness of her allegation of assault by Judge Brett M. Kavanaugh and the stakes of this question for the whole country. Judge Kavanaugh denied the accusation and emphasized in his testimony that the opposition of Democratic senators to his nomination and their consequent willingness to attack him was established long before Dr. Blasey's allegation was known.

Evaluating the credibility of these competing accounts is a question about which people of good will can and do disagree. The editors of this review have no special insight into who is telling the truth. If Dr. Blasey's allegation is true, the assault and Judge Kavanaugh's denial of it mean that he should not be seated on the U.S. Supreme Court. But even if the credibility of the allegation has not been established beyond a reasonable doubt and even if further investigation is warranted to determine its validity or clear Judge Kavanaugh's name, we recognize that this nomination is no longer in the best interests of the country. While we previously endorsed the nomination of Judge Kavanaugh on the basis of his legal credentials and his reputation as a committed textualist, it is now clear that the nomination should be withdrawn.

Ms. HIRONO. In addition, Robert Carlson, president of the American Bar Association, the ABA, issued a letter urging the Judiciary Committee of the Senate to not vote on Judge Kavanaugh's nomination until there is an FBI investigation into Dr. Ford's account of sexual assault. The ABA explained that ''deciding to proceed without conducting an additional investigation would not only have a lasting impact on the Senate's reputation, but it will also negatively affect the great trust necessary for the American people to have in the Supreme Court.''

I agree. Brett Kavanaugh does not have the credibility, candor, character, or, I would say, as we saw yesterday, the temperament to be on the Supreme Court. His presence on the Court under this kind of cloud will weaken the Court. I cannot support this nomination.

I would like to end the remarks I would have given at the markup but am giving on the floor now. I would like to say that my colleague Senator JEFF FLAKE has said that he would not be able to vote on the confirmation of Judge Kavanaugh without an FBI investigation into the current allegations. I support that. I have no idea whether the Republican leadership is going to allow a timeout for that kind of investigation to occur—an investigation that I and other Democratic members of the Judiciary Committee have been calling for, for what seems like months.

Of course, I would want an FBI investigation to be thorough. I do not want some kind of a peripheral investigation to give cover to Senators who are wavering. I would want an investigation by the FBI to be thorough, to be real, to provide us with the kind of information that we need to make a determination as to the credibility, candor, and character of Judge Kavanaugh.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Madam President, the Judiciary Committee had an extraordinary meeting this morning, and each of us spoke at some length about our reservations or support for the nomination of Brett Kavanaugh to be a U.S. Supreme Court Justice. At the end of that meeting, as we were about to take a vote, Senator JEFF FLAKE, our colleague, announced his decision that he would request and seek a 1-week extension of the vote so there could be an FBI investigation of some of the unanswered questions that still very seriously and urgently demand responses in fact and evidence.

That is a very promising and important step. It has to be a real investigation, not a sham or show. It has to be penetrating and impartial, which the trained professionals of the FBI can do.

I have a lot of confidence that the FBI will do its job and answer those very serious and urgent questions.

The answers are all the more pressing after the extraordinary hearing we held yesterday at the Judiciary Committee. The entire Nation watched as two people told their stories; two very, very different stories and also told in very, very different ways, but let's be very clear. The roles of these individuals and their responsibilities were also very different.

Judge Brett Kavanaugh came before us for a job interview. He has no right to be on the U.S. Supreme Court. It is a privilege of extraordinary magnitude and significance. The position is one of the most important in our country—a lifetime appointment to the highest Court in the land.

Our responsibility in the Judiciary Committee is not to approve just anyone for that job. We should be seeking the best person, a person of intellect and integrity and temperament who will be fair and impartial, objective, and considerate.

I concluded well before the hearing yesterday—it is no secret—that I would oppose Judge Brett Kavanaugh for the U.S. Supreme Court.

My opposition was based on his extreme ideological views and judicial philosophy which were amply demonstrated at the previous hearing we had with him. My concern is, he would be a fifth vote to cut back or even overturn Roe v. Wade and stop women from making decisions about when they will become pregnant or have children; stop people from marrying and exercising their right to do so with the person they love; cutting back on consumer rights and workers' rights and environmental objectives; and permitting an imperial Presidency—a President who could decide unilaterally that he believes the law is unconstitutional, and therefore it should not be enforced, meaning that laws protecting millions of Americans who suffer from preexisting conditions like diabetes and heart disease, cancer, mental illness, and, yes, pregnancy would go unprotected, and other rights under the Affordable Care Act. An imperial Presidency giving the power of that kind of unilateral authority is an anathema.

What we saw yesterday went beyond views on substantive issues, and I will be very blunt. What we saw was a man filled with anger, even rage, and self-pity, someone of arrogance, highly intensely partisan, and someone, in my view, temperamentally unfit for the U.S. Supreme Court. In fact, I fear his rancor and animus, his partisan bitterness, which came across so clearly and explicitly in his reference to a leftwing conspiracy; Democrats organized to fight him and dredge dirt to destroy his family, a conspiratorial view of the world that is not only factually totally false but also deeply dangerous and unprecedented in anything we have ever heard from any nominee for any judicial position as long as I have been here and I believe unprecedented also in the Senate's consideration of Supreme Court nominees. He indicated a partisanship that was disrespectful and dangerous.

We saw also a woman who came before us as a sexual assault survivor who was temperamentally almost exactly the opposite. Instead of hostile, she was helpful. Instead of angry, she was calm. Instead of rancorous and arrogant, she was modest and humble.

Like Judge Kavanaugh, her family has been harmed by death threats and other vile, vicious behavior that has no tolerance in a democratic society, and my heart goes out to both families. We should reject threats to both of those families, as we do to anyone else in our society, and I have sympathy for the children and the families on both sides and others who may have been affected in coming forth with truth that relates to this nomination.

The demeanor of Professor-Dr. Christine Blasey Ford was completely distinct and different. She was mesmerizing. Even now, her visage haunts me in her profound honesty. She was credible and powerful in recounting events that caused her untold terror and anguish; events she hid because of the trauma she experienced then and because of many of the fears that cause other survivors of sexual assault to hide the same kinds of assault, the fears of blame and public shaming and character assassination and threats of retaliation and sometimes self-blame or stigma or embarrassment.

In her case, coming forward has made many of those fears a reality, tragically and unfortunately. She has endured the nightmare befallen her and her family simply to serve the public with facts and evidence she believes we should know—we in the Senate, we in America—should take into account before we make a decision on Brett Kavanaugh as the nominee.

So there are profound questions raised by her powerful testimony that need to be answered in the FBI interview. That is the reason the American Bar Association Thursday evening called for postponing a vote on Brett Kavanaugh's nomination to the Supreme Court until sexual assault and misconduct allegations made by Dr. Blasey Ford and others are fully investigated and why separately the magazine of the Jesuit Order in the United States, America, withdrew its endorsement of Judge Kavanaugh. He was educated by Jesuits at Georgetown Preparatory School in Maryland, and on Thursday, the editors said the nomination was no longer in the best interest of the country.

I want to quote further the magazine, which said:

> If Senate Republicans proceed with his nomination, they will be prioritizing policy aims over a woman's report of assault. Were he to be confirmed without this allegation being firmly disproved, it would hang over future decisions on the Supreme Court for decades and further divide the country.

Approval of Brett Kavanaugh for the U.S. Supreme Court would be a cloud, it would be a stain on the U.S. Supreme Court for generations to come. We do that damage to the Nation's highest Court at our peril whether we are in agreement or disagreement with Brett Kavanaugh on his policy aims, as the magazine said.

We are talking about the fundamental integrity of an institution and our responsibility to uphold that integrity.

In her testimony yesterday, she was convincing not only because of what she knew and recalled in such precise, vivid detail—indeed, highlighting the laughter of Brett Kavanaugh as he groped her and held her down, as he lay on top of her, the laughter from both him and from Mark Judge—but after we heard her compelling and powerful story, in Judge Kavanaugh, we heard several statements that clearly contradict the facts in evidence. They are untruths.

He claimed the FBI had already investigated him because they did a background check six times. The FBI never investigated Dr. Blasey Ford's allegations. It never investigated Deborah Ramirez's allegations. It never investigated Julie Swetnick's allegations. In fact, the ABA highlights this point.

Senator GRASSLEY said that committee investigators were willing to talk to the witnesses about their allegations, but committee investigators are no substitute for the FBI. The FBI must send those trained professionals to talk to these brave survivors who have come forward, and it must talk to Mark Judge.

I offered a motion to subpoena Mark Judge this morning before our committee. The motion was voted down.

The FBI must talk to Mark Judge, who was allegedly in that room with Brett Kavanaugh when he assaulted Dr. Blasey Ford.

We asked Judge Kavanaugh to call for an investigation by the FBI. A person who is innocent would want the FBI to investigate their claims and clear their name. That is what Dr. Blasey Ford wanted. She said so publicly.

When Brett Kavanaugh was asked, he refused to make that same call. The question is, Why? What is he hiding? What is the administration concealing in refusing to disclose more than a million pages of documents that relate to Brett Kavanaugh's service in the Bush White House as Staff Secretary? They bear on his credibility, maybe not on these specific allegations, but on his credibility.

Judge Kavanaugh claimed that polygraphs are not reliable; that the polygraph Dr. Blasey Ford took and passed was meaningless. Yet, on the DC Circuit as a judge, Brett Kavanaugh ruled otherwise. He wrote ''law enforcement agencies use polygraphs to test the credibility of witnesses and criminal defendants.''

As a former U.S. attorney, I know how polygraphs are used to test credibility of witnesses and criminal defendants. They may sometimes be inadmissible. They may be inadmissible generally, but they have a use. Judge Kavanaugh claimed that all four witnesses Dr. Ford identified as being present at the party have said that the sexual assault ''didn't happen,'' but in fact, only one person has said the sexual assault didn't happen. That one person is Brett Kavanaugh. The other three parties identified by Dr. Blasey Ford said they do not remember. There is a big difference between ''do not remember'' and ''it didn't happen.''

The other woman Dr. Blasey Ford named who was there has since publicly stated that she believes Dr. Ford's account. She believes Dr. Ford, and I do too. Judge Kavanaugh tried to give himself an alibi by making it sound like he never drank on weeknights. His own high school calendar, which he provided the committee as evidence, disputes that statement.

During the hearing, he admitted that one of the entries on his calendar from

a Thursday signified that he went to a friend's house to drink.

Judge Kavanaugh repeatedly said that he had never in his life had so much to drink that he couldn't remember everything that happened, but numerous people who spent time with him during his high school, college, and law school years confirmed that he frequently drank to excess and sometimes became belligerent.

Judge Kavanaugh claimed that he always treated women ''with dignity and respect''—his words—and yet he and his football friends from high school named one of my constituents, Renate Dolphin, in their yearbook pages, saying they were her ''alumnius,'' in effect, boasting of sexual conquests and objectifying her, demeaning her. That is hardly treating a woman with dignity and respect. Judge Kavanaugh said this reference meant nothing sexual, but Renate Dolphin disagrees. In a quote to the New York Times, she said:

The insinuation is horrible, hurtful, and simply untrue. I pray their daughters are never treated that way.

He said the allegations against him were ''a calculated and orchestrated political hit fueled with apparent pent-up anger about President Trump and the 2016 election.'' He called it ''revenge on behalf of the Clintons.'' He issued a warning—more like a threat—that ''what goes around comes around.'' That threat to the Judiciary Committee of the U.S. Senate is a threat to America. It is profoundly and deeply dangerous to think that litigants will come before his court with the threat that their political views will determine how he decides their cases. That is antithetical to the basic fundamental principles of this country. It contravenes the entire concept of an independent judiciary. President Trump has demonstrated his contempt for the rule of law and an independent judiciary, but a member of one of the highest courts in the country doing so is chilling. It is stunning. It is staggering.

My Republican colleagues, unfortunately, followed that example. They said we leaked her letters to the press at the last minute to derail Judge Kavanaugh's nomination. They called the allegation against Judge Kavanaugh a coordinated smear campaign. That contention is false. It implies that these courageous survivors of sexual assault are puppets or pawns orchestrated by politicians. Anybody who heard and saw Dr. Blasey Ford yesterday knows that is blatantly false. She came forward on her own initiative. She did it reluctantly, foreseeing the nightmare that would befall her and her family. She did it without encouragement from any Member of the U.S. Senate or any other political figure. That contention is an insult to her and all survivors of this horrific crime. Is Deborah Ramirez's story, too, a fabricated allegation to take down Judge Kavanaugh?

When Senator HARRIS asked Judge Kavanaugh if he had listened to Dr. Ford's testimony, he said: ''I did not.'' He should have. He should have listened to her testimony. He should have heard and heeded what Deborah Ramirez said about his sexual misconduct toward her and, likewise, Julie Swetnick, about the chilling acts that she alleged that he was involved in performing.

Judge Kavanaugh and my Republican colleagues say they don't dispute that Dr. Blasey Ford may have been sexually assaulted at some point but by some other person, just not Brett Kavanaugh. Maybe she was mixed up. Maybe she was confused. Those kinds of words used to describe her and other sexual assault victims demonstrate the disrespect and disregard that has shamed and silenced so many sexual assault survivors from coming forward to tell their truth, seek prosecution, and consult their parents or loved ones and seek healing. It is the reason that sexual assault is one of the most underreported crimes in our country. One out of every three women is a survivor, but so very few come forward because of the public shaming, character assassination, and threats and rejections they fear and, in fact, they rightly foresee.

To my friends on the other side of the aisle, you cannot have it both ways. You either believe Dr. Blasey Ford or you reject her testimony. Either you accept her veracity or you don't. Dr. Blasey Ford was asked whether it was possible that she confused her attacker, whether there was mistaken identity, or whether there was maybe someone else other than Brett Kavanaugh. Firmly, unequivocally, repeatedly, she said no. Before us and the entire country, she said she was ''100 percent'' sure that Brett Kavanaugh was her attacker.

This detail is seared in her memory. There is no mistaken identity here. A person so brutally attacked at the age of 15 who admits to these details and also the details that she doesn't remember and insists on the details she does remember doesn't make something like that up out of whole cloth. She came forward at great personal sacrifice. I believe her. I think America believes her.

She testified that she was terrified—that is her word, ''terrified''—to come forward. She was very nearly silenced by her fear. She worried if she told her story that she would be shouted down or vilified by Judge Kavanaugh's defenders and that he would never be held accountable. That fear silences too many survivors. We must prove them wrong. We must hold him accountable.

As I said at the very start, a lifetime appointment and promotion to the Supreme Court is not an entitlement. It is a privilege for the person who is best for that position.

Last Friday, President Trump said about Dr. Blasey Ford's story on Twitter:

I have no doubt that, if the attack on Dr. Ford was as bad as she says, charges would have been immediately filed by local Law Enforcement Authorities by either her or her loving parents. I ask that she bring those filings forward so we can learn the date, time, and place!

President Trump knows better. I hope he knows better. Psychologists have noted, and it is widely known, that there are a number of reasons why survivors opt for silence, such as fear of retaliation and repercussions in the workplace or at home, feelings of self-blame. They are told to dismiss it. They are told by their parents they will be blamed, not the perpetrators. They fear they will not be believed, and they want to forget. They want to put this trauma somewhere deep and dark where it will be a source of less pain.

So Dr. Ford did not share the details of her abuse until a therapy session in 2012. She told her husband early in their relationship, but even he did not know the details of this incident until that therapy session.

That is not uncommon for people who have experienced trauma. In the last few weeks, numerous survivors of sexual assault have stepped forward with their stories to explain why they hid their own trauma. I want to take this opportunity to express my admiration for the survivors who are coming forward now with stories of terrible crimes, of impulses to stay silent, and of fears that they have conquered in coming forward.

Madam President, I ask unanimous consent that these stories be printed in the RECORD.

I will not read them all now, but I wish for the statements of Lindsey Jones of Connecticut; Tara, who asked that her last name not be used, also of Connecticut; and survivors from other parts of the country who have contacted me just over the past few days be printed in the RECORD.

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

LINDSEY JONES FROM CONNECTICUT

Pain, sadness, shame, self-doubt, loyalty, guilt, fear. These are some of the reasons I decided not to file a police report when I was assaulted at a house party in my teens.

The main reason, however, was that as a teenage girl I had spent my life in a culture that told me I was the least important character in the story of my life. My pain, my truth, my future were all less important than the futures and reputations of the people who assaulted me.

I believed that I must bear at least some of the responsibility for the assault because I had been drinking underage.

And a brief visit to the victim services office of my college only confirmed that belief. I believed that the symptoms of depression and post-traumatic stress following the assault was my own personal failings.

I told myself I was being dramatic, that my inability to just get on with things shouldn't negatively impact the futures of my formers friends.

I even, in a desperate attempt to convince myself that nothing truly terrible had happened, apologized for inconveniencing them and privately accusing them of assault.

You see, I could deal with what happened to me if I was at fault. If it was my fault, I

could change my behavior to make sure it never happened again.

If I stayed silent, I could pretend everything was fine and deal with my emotions in private. If I was silent, people wouldn't look at me and see either a victim or a liar.

No one would have to choose sides, everyone I knew would be spared of what side to take, my side, or the side of my rapist.

If I stayed silent and accepted all the blame, I spared myself the additional trauma of watching friends and loved ones choose the sides of the person who assaulted me.

Most importantly, if I convinced myself that nothing illegal had taken place, that it was more of a misunderstanding than an assault, if I convinced myself that it didn't matter anyway, that I didn't really care, then I wouldn't have to face my biggest fear—that no one else would really care, that I didn't really matter.

I was convinced that I could find safety in my silence, but to paraphrase the poet and activist Audre Lorde, my silence did not protect me.

It's been 15 years, and I'm still in pain. And the people who assaulted me have not faced a single consequence.

And meanwhile, especially over the last two years, I continued to find evidence that my teenage self was right—no one cares about the victims of sexual assault.

No one seems to care to the point that in 2018, men who have been credibly accused of sexual assault are leading this nation and their accusers are publicly doubted and verbally eviscerated by the media, the president, and members of the senate judiciary committee.

I am here today because I want all the unheard teenagers girls in this country, past, present, and future, including my two daughters, one of whom is here with me today, every time you speak the truth, you do your part to dismantle a toxic, victim-blaming culture, and the world is better for it. Make them hear you. Thank you Senator Blumenthal, and thank you Dr. Blasey Ford.

TARA FROM CONNECTICUT

Between the ages of 13 and 14, I was raped by a man whose children I used to babysit for.

He used the fact that I loved his children and wanted them in my life against me as he raped me while the children were around us.

I didn't tell—I thought that if I got out of the situation that it would be okay because it was my fault—especially after the first time.

I didn't tell, like he said, nobody would believe me.

They would think that I wanted it.

So I continued on and didn't tell till I got a phone call that he had possibly raped the babysitter after me.

And that was the only thing that got me to come forward and speak up.

I had already not been in the children's life and I needed to stop him from doing it again.

And so we went through and I pressed charges and he ended up getting five years.

And he got out of prison and there were no safeguards to protect anybody and he is back on the streets and I don't know today if I would have spoken up back then until recently.

If I hadn't gotten that phone call, this may still be a secret I keep.

And, you know, because of the more people coming forward—Dr. Ford, we believe you. We all need to stick together and do what's right because 1 out of 4 girls and 1 out of 6 boys—it's in everybody's family.

And I just ask the Senators to think about if it was your mother or your sister or your daughter, what would you want for them?

And nobody who is falsely accusing somebody would ask for an FBI investigation—in my opinion.

I just—I really think we all need to stick together and demand what she deserves.

EMILY MALLOY FROM NORTH CAROLINA

I remember what I was wearing like it was yesterday.

Like a broken record on repeat.

I'll never forget that outfit and what happened to me in those clothes that unforgettable night.

Blue jeans and a bright blue t-shirt. Nothing revealing. Nothing slutty. Just regular clothes you wear to a high school football game.

It was senior year. I was with one of my high school friends and we had just gotten invited to a after game party.

I wish I would have listened to my gut that night, but I ignored that voice in my head like the plague.

I was pressured into going to this party by my friend and I was staying at her house that night . . . little did I know I'd never get to her house. There we were.

Beer and loud rap music. I was surrounded by people I knew.

Yes I drank. Yes I got drunk. What happened later that night ISN'T my fault and it took me 11 years so believe that.

Three guys I knew. Three guys I trusted. Three guys lured me into a dark room. One of those guys took my innocence without my consent that night on the cold floor.

I froze. I panicked. I gave in and just let it happened.

What I was left with in the wee hours of the morning, was bruises and a tattered spirit that I'm still healing to this day.

I'm now 31.

I finally told my mom this past fall. I remember mom saying ''I wish you would have told me we could have prosecuted those guys.''

I just hugged her and cried . . . I knew that my chances of justices were slim to none.

ANONYMOUS FROM NEW JERSEY

A decorative emerald green bird in a nest, embellished with gold glitter

An orange shag carpet and a plaid bedspread

An ugly brown wallpaper with golden swirls

A rough wood wall in a darkened hallway between two office buildings

Look at this list. See any connections? I'm guessing that most wouldn't—even an experienced HGTV designer would have difficulty coordinating them or even using them as inspiration for a room makeover.

But I can connect them without hesitation: they're all objects—things I remember—from the times I was violated, molested, or fought through attempted sexual assaults. They are objects from four specific points in time:

A night when I was 6

An afternoon when I was 12

A night when I was newly-16

An afternoon when I was 16

It's bizarre—even to me—to see this list of things together. I've never written it before. I've never spoken openly about the incidents before. But I remember them, each of them. The incidents and the objects. Some violations play like movies in my head from time to time, even 40+ years later. Certain objects, smells, hairdos, and foods can bring a flood of memories—of the teen boys and grown men who attacked me. And each time it happens, it's like a punch to the gut. Still. Decades later.

When that happens, I want to hold the 6-year-old me and tell her that the pedophile teen was a crafty opportunist that night—and it was not her fault. I didn't report it because I didn't have the words.

I want to comfort the 12-year-old me and tell her that the 17-year-old who physically manifested his interest in her prepubescent body should have been nowhere near her—and it was not her fault.

I didn't report it because I was told by him that it would ruin his life.

I want to tell the newly-16-year-old me that the drunken upperclassman who followed her into the bathroom at a party to was an insecure, aggressive guy who was incapable of handling rejection—and it was not her fault.

I didn't report it because I had been drinking and didn't want to get in trouble.

I want to tell the 16-year-old me that the 40–something-year-old man who pinned her against the wall, shoved his tongue down her throat, and groped her was a sick individual—and it was not her fault.

I didn't report it because I was told by the adult I confided in that the man would go to jail; and since he was a husband and a father of young children, it would ruin his life. This is the first time I've written it all out—the things that happened and why I didn't report them. And I know there are millions of unwritten stories and unspoken memories just like mine—from all over the world.

We haven't been heard, but we exist. And since the #metoo movement we've realized that we're not alone. We're not voiceless. We're not powerless. We're finally learning to say ''me too.''

Mr. BLUMENTHAL. Madam President, let me conclude with this thought. Dr. Blasey Ford is a profile in courage. Her name will be remembered long after many of ours are forgotten. She will be in the history books as a teacher—she is a teacher by profession—for this teaching moment for America. It is a teaching moment for all of us—for women who need perhaps that inspiration and role model to come forward and to know that they will be embraced, not rejected. They will be believed, not shunned. They will be bolstered and heeded, and their perpetrator will be held accountable. It is a teaching moment for men—all of us—that we need to do better. It is also a teaching moment for young men—high school juniors and seniors, like Brett Kavanaugh was. When he put into his yearbook that hurtful, horrible phrase about Renate Dolphin—in effect, laughing at her and ridiculing that young woman, just as he laughed and ridiculed Dr. Blasey Ford, then 15 years old, as he allegedly was on top of her, groping and trying to undress her—that laughter was the detail that continued to ring in the ears of Dr. Blasey Ford. It was the most identifiable fact about that incident, as she said yesterday: That laughter is what I hear when I see that entry in the yearbook.

So to all of us men and women in America, her profile in courage should send a message. We should be proud of her, and no one should be prouder than her two sons. I say to Dr. Blasey Ford's sons, as I did this morning in the Judiciary Committee meeting: You should be proud of your mom. She is an American woman who stood strong and spoke out and fearlessly and relentlessly insisted on America hearing her story—well, maybe not fearlessly. She had fear, but she conquered it. That is the definition of courage—not to be without fear but to act courageously in

spite of it. Grace under pressure—that is Christine Blasey Ford.

I expressed my gratitude that I think is shared by many in America for that great teaching moment yesterday. We should honor her by acting in a way that keeps faith with her honesty and bravery.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

PROVIDING FOR A CORRECTION IN THE ENROLLMENT OF S. 2553

Mrs. ERNST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Con. Res. 49, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 49) providing for a correction in the enrollment of S. 2553.

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

Mrs. ERNST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 49) was agreed to.

(The concurrent resolution is printed in today's RECORD under ''Submitted Resolutions.'')

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

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

NOMINATION OF BRETT KAVANAUGH

Mr. WHITEHOUSE. Mr. President, I am here for my customary ''Time to Wake Up'' speech, but before I get into it, given the events of the day, I just want to express my satisfaction with the turn of events in the Judiciary Committee.

As the Acting President pro tempore may know, yesterday was a rather bitter day in the Judiciary Committee, with there being a lot of anger and tribal belligerence and a nominee who was full of partisanship and conspiracy theory and invective. It really was not a good day. Yet this is a funny place, and sometimes, right after we have been at our worst, something breaks that turns things in the right direction.

Something happened in the Judiciary Committee today, much due to the concerns and the fortitude of Senator FLAKE, so I want to give him primary credit. I understand the Republican leadership has agreed there will be a weeklong delay in the Kavanaugh vote on the floor and that the FBI will be given a chance to do its job and take a look at the allegations that are out there about his conduct.

This is not only a good thing for the Senate—because I think it releases a lot of pent-up pressure and anxiety and hostility—but it is also a really good thing for the process because the worst possible outcome would be that we would push this candidate through, that he would then get on the Supreme Court, and it would be subsequently shown that these allegations would have been, in fact, true and that he would not have been truthful with us about it and would have lied to the Senate. To clear as much of that cloud off of him as possible, I think, is good for us, good for the Court, good for the country—good for all. So, after a grim and battering day yesterday, I think we had a productive day today. I feel I earned my pay in the Senate over in the Judiciary Committee.

MISINFORMATION

Mr. WHITEHOUSE. Mr. President, what I want to talk about is a new form of political weapon that has emerged onto the political battlefield in America, and it is a political weapon for which the American system is not very well prepared yet. The new political weapon we see is systematic and deliberate misinformation, what you might call weaponized fake news.

Vladimir Putin's regime, in Russia, uses weaponized fake news all the time for political influence in the former Soviet Union and the modern European Union. Our intelligence agencies caught them using misinformation to help Trump win the 2016 American election. Some also is homegrown. In America, the original weaponized fake news was climate denial, spun up by the fossil fuel industry. The fossil fuel industry used systematic, deliberate disinformation to propagandize our politics and fend off accountability for its pollution of our atmosphere and oceans.

So, for both national security and political integrity reasons, we need to better understand this misinformation weaponry. Guess what. Science is on the case. A comprehensive array of peer-reviewed articles appeared last year in the Journal of Applied Research in Memory and Cognition and, I am sure, is on the Acting President pro tempore's bedside table for light reading. Dozens of scientists contributed to this report, and I list their names in an appendix to the speech.

Mr. President, I ask unanimous consent that my appendix be added at the end of my speech.

What they found is interesting. One piece—tellingly subtitled ''Understanding and Coping with the 'Post-Truth' Era''—describes how ''the World Economic Forum ranked the spread of misinformation online as one of the 10 most significant issues facing the world''—the top 10.

''An obvious hallmark of a post-truth world is that it empowers people to choose their own reality, where facts and objective evidence are trumped by existing beliefs and prejudices,'' concludes one article—not a good thing.

This is not your grandfather's misinformation. This is not ''JFK and Marilyn Monroe's Love Child Found in Utah Salt Mine.'' This is not ''Aliens Abducted My Cat.'' This is not fun and entertainment. This is also not people just being wrong. Indeed, ''misinformation in the post-truth era can no longer be considered solely an isolated failure of individual cognition that can be corrected with appropriate communications tools,'' they write.

In plain English, this isn't just errors; there is something bigger going on. Scientists from Duke University agreed.

''Rather than a series of isolated falsehoods, we are confronted with a growing ecosystem of misinformation.''

In this ecosystem, misinformation is put to use by determined factions.

''The melange of anti-intellectual appeals, conspiratorial thinking, pseudoscientific claims, and sheer propaganda circulating within American society seems unrelenting,'' write Aaron M. McCright of Michigan State and Riley E. Dunlap of Oklahoma State.

They note: ''Those who seek to promote systemic lies'' are ''backed by influential economic interests or powerful state actors, both domestic and foreign.'' Let me highlight those key phrases—''systemic lies . . . backed by influential economic interests.'' Like I said, it is not your grandfather's misinformation.

An author from Ohio State writes that this creates artificial polarization in our politics that is not explained by our tribal social media habits. His subtitle, too, is telling: ''Disinformation Campaigns are the Problem, Not Audience Fragmentation.'' He notes these disinformation campaigns ''are used by political strategists, private interests, and foreign powers to manipulate people for political gain.''

''Strategically deployed falsehoods have played an important role in shaping Americans' attitudes toward a variety of high-profile political issues,'' reads another article.

In a nutshell, Americans are the subjects of propaganda warfare by powerful economic interests.

So how is all of this misinformation deployed?

''The insidious fallouts from misinformation are particularly pronounced when the misinformation is packaged as a conspiracy theory,'' they tell us—insidious, indeed. By wrapping deliberate misinformation in conspiracy theory, the propagandist degrades the target's defenses against correction by

legitimate information. Conspiracy theories, the articles notes, ''tend to be particularly prevalent in times of economic and political crises.''

Pulling emotional strings is another technique. Emotionally weaponized fake news is reflected in ''the prevalence of outraged discourse on political blogs, talk radio, and cable news.''

These powerful interests also take advantage of ''the institutionalization of 'false equivalence' in so-called mainstream media.'' They sophisticatedly leverage media conventions to their private advantage.

Another tactical observation: To be effective, the misinformation campaign does not have to convince you. It can simply barrage, confuse, and stun you.

One of these articles related the Bangor Daily News assessment of falsehoods coming from the Trump White House: ''The idea isn't to convince people of untrue things, it is to fatigue them, so that they will stay out of the political province entirely, regarding the truth as just too difficult to determine.''

This, of course, is a well-known political propaganda strategy. What the Bangor Daily News saw, the researchers note, is ''mirrored by analysts of Russian propaganda and disinformation campaigns.''

McCright and Dunlap describe how weaponized fake news—what they call ''the intentional promotion of misinformation''—is made into systematic propaganda by amplification of what they call the ''powerful conservative echo chamber.'' It is systematic, it is deliberate, and it is supported by a purposeful private apparatus.

This brings us back to what the authors call the ''utility of misinformation . . . to powerful political and economic interests.'' What they conclude, basically, is that the weaponization of fake news is done for profit and with purpose. It has an apparatus of amplification. It needn't convince but simply stun or confuse. Like an insidious virus, it can carry its own conspiracy theory and emotional payload countermeasures against the ordinary antibodies that ordinarily protect us from being misled.

The scientists urge that we must examine these systematic campaigns of false misinformation ''through the lens of political drivers that have created an alternative epistemology that does not conform to conventional standards of evidentiary support.''

Let's unpack that language for a minute. Let's begin with the fact that it is ''political drivers'' that are behind the scheme. This is a tool in a larger battle for political supremacy.

To help win this battle, political actors have ''created an alternative epistemology,'' a separate way of looking at the world; obviously, a way of looking at the world that aligns with their economic interests.

That ''alternative epistemology'' is untethered from the truth. It ''does not conform to conventional standards of evidentiary support.'' It stands on falsehood, on prejudice, and on emotion, not on fact.

What the authors call ''post-truth politics'' has motive and purpose. They write: It is ''a rational strategy that is deployed in pursuit of political objectives.''

In these propaganda campaigns by powerful economic interests, some stuff right now happens a lot more on one political side. Scientists track an uneven distribution of emotion-ridden fake news and misinformation. They say: ''The prevalence of outraged discourse on political blogs, talk radio, and cable news is 50% greater on the political right than the political left.''

Other authors write ''if the political context were to change, we might expect the distribution of misperceptions across the political spectrum to change as well,'' but for now, the weaponized fake news virus predominantly infects the political rightwing and modern conservative politics.

McCright and Dunlap writes: ''The Right seems especially adept at using Orwellian language to promote their ideological and material interests via what we would argue are systemic lies.''

So who does this? Weaponized fake news is not cheap. It is not cheap to test. It is not cheap to manufacture, and it is not cheap to distribute. It is also not cheap to maintain a network to put weaponized fake news out there in a way that masks the identity of the economic forces behind the network. This takes money, motive, and persistence, and that means big industrial players.

What authors call the ''800-pound gorilla in the room'' is ''a political system that is driven by the interests of economic elites rather than the people.'' That is big economic elites playing a game of masquerade and manipulation in our politics. The scheme may look like populism. Indeed, part of the masquerade is, it is designed to look like populism, but that is what is going on.

The disinformation campaign is ''largely independent of the public's wishes but serves the interests of economic elites.'' The populist masquerade is part of the disinformation exercise.

These economic elites take methods developed decades ago by one industry to use for another industry today. We see this in the fossil fuel industry-weaponized fake news about climate change—climate denial we call it.

The stakes are very high, with the International Monetary Fund calculating that fossil fuel exacts a subsidy from the American people of $700 billion per year. To protect an annual subsidy of $700 billion per year, you can cook up a lot of mischief.

Where did the fossil fuel climate denial mischief begin? It began in the tobacco industry's fraudulent schemes to deny the health risks of tobacco. Did Big Oil shy away from those tobacco tactics, knowing those tactics were actually found in court to be fraud? No.

Indeed, to quote an article: ''The oil industry has worked to promote doubt about climate change science using tactics pioneered by cigarette manufacturers in the 1960s.''

To protect a $700 billion annual subsidy, you can build a bigger denial scheme even than Big Tobacco, and they did. McCright and Dunlap call this the ''climate change denial countermovement.'' They say its message ''may be the most successful systemic lies of the last few decades.''

They continue:

> Briefly, this countermovement uses money and resources from industry and conservative foundations to mobilize an array of conservative think tanks, lobbying organizations, media outlets, front groups, and Republican politicians to ignore, suppress, obfuscate, and cherry-pick scientists and their research to deny the reality and seriousness of climate change.

Other authors write that ''the current polarization of the climate debate is the result of a decades-long concerted effort by conservative political operatives and think tanks to cast doubt on the overwhelming scientific consensus that the earth is warming from human greenhouse gas emissions.''

''To cast doubt'' is the key phrase in that last quote. The authors emphasize that ''climate science denial does not present a coherent alternative explanation of climate change. On the contrary, the arguments offered by climate denial are intrinsically incoherent. Climate-science denial is therefore best understood not as an alternative knowledge claim but as a political operation aimed at generating uncertainty in the public's mind in order to preserve the status quo.''

How did that play out in Republican policymaking? ''[W]hile climate change used to be a bipartisan issue in the 1980s, the Republican party has arguably moved from evidence-based concern to industry-funded denial.''

Let's be clear. Climate denial is not a search for truth. As the evidence piled up that early climate change warnings were accurate, the climate denial campaign did not relent in the face of those facts. Indeed, the scientists relate, ''the amount of misinformation on climate change has increased in proportion to the strength of scientific evidence that human greenhouse gas emissions are altering the Earth's climate.''

It is a fossil fuel upgrade of the fraudulent Big Tobacco strategy. One example is the so-called Oregon Petition, a bogus petition urging the U.S. Government to reject the 1997 Kyoto Protocol on global warming. One article points out that ''the Oregon Petition is an example of the so-called 'fake-experts' strategy that was pioneered by the tobacco industry in the 1970s and 1980s.''

Of course, since this scheme isn't real science, it doesn't use real scientific outlets. ''[M]uch of the opposition to

mainstream climate science, like any other form of science denial, involves non-scientific outlets such as blogs.''

Another article notes that this is done on ''websites that obfuscate their sponsor by mimicking the trappings of nonprofits and other more trusted sites.'' Again, masquerade—even camouflage—is part of the problem. I think it goes without saying that in real science it is not necessary to mask the real proponent.

Another signal of the scheme is repetition of falsehood. ''Dozens of studies document an illusory truth effect whereby repeated statements are judged truer than new ones.''

In real science, when someone realizes what they are saying is wrong, they stop saying it. In the weaponized disinformation scheme, you just keep saying it. You maybe even say it more to capitalize on this ''illusory truth effect.''

This, of course, recalls the infamous Big Tobacco declaration: ''Doubt is our product.'' That is a quote from a tobacco memo.

The heart of the fossil fuel industry's scheme is to undermine legitimate science with false doubts. To chip away at the scientific consensus on climate change, they chip away at the foundations of truth itself.

One author sees this as ''the willingness of political actors to promote doubt as to whether truth is ultimately knowable''—think of the President's lawyer, Giuliani, saying ''truth isn't truth''—or ''whether empirical evidence is important''—think of climate denial trying to drown out the truth through repetition of false statements—third, ''and whether the fourth estate has value''—think of the President attacking the legitimate media as ''fake news'' and the ''enemy of the people.''

The scientific paper concludes: ''Undermining public confidence in the institutions that produce and disseminate knowledge is a threat to which scientists must respond.''

Sadly, real science is poorly adapted to defending itself against weaponized disinformation in the public arena.

Let me conclude with what one article calls a case study in the spread of misinformation. Last year's ''Unite the Right'' rally in Charlottesville, VA, which led to the murder of Heather Heyer, killed by a White supremacist speeding into a crowd, a witness recorded on film the car plowing into that crowd of people. The authors wrote: ''Within hours, conspiracy theories began floating around the internet among people associated with the alt-right,'' attempting to undermine and discredit the witness. Social media posts then appeared ''suggesting [the driver] staged the attack, was trained by the CIA, and funded by either George Soros, Hillary Clinton, Barack Obama or the global Jewish mafia. . . . [T]hose conspiracy theories migrated into more mainstream media. Variations appeared on info wars and Shawn Hannity's show on Fox.'' FOX News, by the way, is a common venue for fake news.

Here is what the scientists chronicle as the ''Fox News effect'':

> It has repeatedly been shown that people who report that they source their news from public broadcasters become better informed the more attention they report paying to the news, whereas, the reverse is true for self-reported consumers of FOX News. . . . [F]or self-reporting viewers of Fox News . . . increasing frequency of news consumption is often associated with an increased likelihood that they are misinformed about various issues.

In a nutshell, the more you watch real news, the more you know; the more you watch FOX News, the less you know—great for the elite merchants of doubt.

The effects of misinformation become measurable by looking at provable falsehoods that people are made to believe.

> [A] 2011 poll showed that 51 percent of Republican primary voters thought that then-president Obama had been born abroad. . . . [Twenty percent] of respondents in a representative U.S. sample have been found to endorse the proposition that climate change is a hoax perpetrated by corrupt scientists. The idea that the Democratic Party was running a child sex ring was at one point believed or accepted as being possibly true by nearly one-third of Americans and nearly one-half of Trump voters.

All provably false. All propagated until significant numbers of people believed.

So how do we fight back? The researchers offer an array of approaches. ''Russian propaganda can be 'digitally contained' by supporting media literacy and source criticism,'' says one.

''Our recommendation,'' wrote another, ''is to begin by generating a list of the skills required to be a critical consumer of information.'' In essence, we have to adapt new citizenship skills to protect ourselves from weaponized fake news.

Another recommendation is to teach people about the tactic of sewing doubt through disinformation. Where ''typical cues for credibility have been hijacked,'' understanding the tactics will help inoculate people against being taken in by the scheme.

The researchers reported:

> Participants read about how the tobacco industry in the 1970s used ''fake experts''—people with no scientific background, or doctors and scientists with beliefs unrepresentative of the rest of the scientific community—to create the illusion of an ongoing debate about smoking's negative health consequences. Participants who read about the ''fake experts'' type of argument were less affected when later reading a passage on climate change that quoted a scientist who referred to ''climate change . . . [as] still hotly debated among scientists.''

Other authors argued that a comprehensive approach will be needed to debunk climate denial. They note that ''climate denial typically masquerades as 'pro-science' skepticism and paints the actual science of climate change as being 'corrupt' or 'post-moderate.' It is possible that those carefully crafted forms of misinformation will require continued human debunking as well as increased media literacy.''

Last, there is a role for the media. ''At present,'' authors point out, ''many representatives of think tanks and corporate front groups appear in the media without revealing their affiliations and conflicts of interest. This practice must be tightened, and rigorous disclosure of all affiliations and interests must take center stage in media reporting.'' Again, once you out the participants and show the scheme, people can figure it out for themselves.

Recommended media reforms include a ''counter fake news editor [to] highlight disinformation'' or a ''[r]ating system for disinformation'' or ''a Disinformation Charter.''

Science itself is beginning to examine the growing threat of misinformation in American society, which is appropriate since science is so often the target of weaponized misinformation campaigns. More and more, real science must face up to the fact that a new predator roams its territory and adapt new defenses against this predator. The predators may not want to defeat all science. They probably still wants to use their iPhones and drive cars and live in safe buildings and enjoy products and services that science gives us. But they do seek to defeat whatever science challenges the economic interests that fund them.

As I said at the start, the Journal of Applied Research in Memory and Cognition is not exactly grocery-store checkout-line reading. Few Americans have read this volume. I am probably the only one in Congress. But its message is important, and that is why I came to the floor to share it today.

Campaigns of lies are dangerous things, like an evil virus in the body politic, and if we want to be a healthy country, we will have to defeat the weaponized disinformation virus. Curing our body politic of the ongoing fraud of climate denial would be a very good start.

I note the deputy majority leader is here on the floor. I apologize for continuing my speech while he is here. I appreciate his productive role in the happy events that I described at the beginning of these remarks.

Before the Senator from Texas takes the floor, I ask unanimous consent that the appendix I referenced be printed in the RECORD.

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

> Sources: Journal of Applied Research in Memory and Cognition, Volume 6, Issue 4 (December 2017)
>
> Letting the Gorilla Emerge From the Mist: Getting Past Post-Truth By Stephan Lewandowsky (George Mason University, University of Bristol), John Cook (George Mason University) & Ullrich Ecker (University of Western Australia),
>
> A Call to Think Broadly about Information Literacy By Elizabeth J. Marsh & Brenda W. Yang (Duke University)
>
> Combatting Misinformation Requires Recognizing Its Types and the Factors That Facilitate Its Spread and Resonance By Aaron

M. McCright (Michigan State) Riley E. Dunlap (Oklahoma State)

Beyond Misinformation: Understanding and Coping with the ''Post-Truth'' Era By Stephan Lewandowsky (GMU, University of Bristol), Ullrich Ecker (University of Western Australia), and John Cook (George Mason University)

Misinformation and Worldviews in the Post-Truth Information Age: Commentary on Lewandowsky, Ecker, and Cook By Ira E. Hyman (Western Washington University), & Madeline C. Jalbert (University of Southern California)

Routine Processes of Cognition Result in Routine Influences of Inaccurate Content By David N. Rapp & Amalia M. Donovan (Northwestern University)

The ''Echo Chamber'' Distraction: Disinformation Campaigns are the Problem, Not Audience Fragmentation By R. Kelly Garrett (Ohio State University)

Leveraging Institutions, Educators, and Networks to Correct Misinformation: A Commentary on Lewandosky, Ecker, and Cook By Emily K. Vraga (George Mason University) & Leticia Bode (Georgetown University)

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

NOMINATION OF BRETT KAVANAUGH

Mr. CORNYN. Mr. President, as the world knows by now, yesterday we had another hearing on the nomination of Judge Brett Kavanaugh to be a member of the U.S. Supreme Court. It was necessary to do so because an allegation had been made by Dr. Christine Ford to the ranking member, our friend Senator FEINSTEIN from California, dated July 30, but because Dr. Ford requested confidentiality and she wanted to remain anonymous, none of this was brought to anybody's attention until some time after the judge's original confirmation hearing occurred. The judge visited with 60-plus Members of the Senate, including the ranking member, and it was never mentioned to him. No questions were asked about it.

Contrary to her wishes, Dr. Ford was thrust into the national spotlight. She said she didn't agree to have her letter released to the press. She did not consent to having her identity revealed. She did not want to be part of what has turned into a three-ring circus. But, once there, when she asked to tell her story, we consented to doing that, and yesterday we heard from Dr. Ford as well as Judge Kavanaugh.

Judge Kavanaugh asked to be heard to clear his good name and speak directly to the American people, and he did so forcefully yesterday.

Now we have heard Dr. Ford's story, and we have heard Judge Kavanaugh's rebuttal. What we have learned is that there is no evidence to corroborate Dr. Ford's allegation. All of the people she said were there on the occasion in question said they have no memory of it or it didn't happen—no corroboration.

As we all watched Judge Kavanaugh defend his personal integrity in front of the Nation, we saw his righteous indignation. He choked back his tears and aimed his fury not at Dr. Ford—none of us did that—but, rather, at this unfair confirmation process, which, frankly, is an embarrassment to me and should be an embarrassment to the U.S. Senate. To take somebody who has requested confidentiality and leak that information to the press and then to thrust her into the national spotlight under these circumstances, I think, is an abuse of power. But having made that request, once she was in the spotlight, we felt it was very important to treat her respectfully and to listen to her story.

I told anybody who would listen that I wanted to treat Dr. Ford the same way I would expect that my mother or my sister or my daughters would be treated under similar circumstances. Conversely, I thought that we should treat Judge Kavanaugh fairly, too, just as we would our father, our brother, or our son. In other words, this is more than just about Dr. Ford; this is about Dr. Ford and Judge Kavanaugh.

We heard the judge respond with quite a bit of righteous indignation, as I said, talking about his family having been exposed to the vilest sorts of threats, including his two young daughters. I know it was a hard pill for many of our Democratic colleagues to swallow to hear the truth of what this terrible process has resulted in, both for Judge Kavanaugh and Dr. Ford, but too much was on the line for Judge Kavanaugh to withhold his defense of his good name. After all, his reputation is on the line, his family is on the line, and his family, including his wife and his two daughters, are all caught up in what must be a miserable experience.

Still, I am glad we held the hearing, and I am grateful to Rachel Mitchell for participating and asking her probing questions.

Some have questioned: Why would a Senator yield to a professional in the sexual abuse field to ask questions of Dr. Ford? Well, it was simply because we wanted to depoliticize that process and to treat Dr. Ford with respect and gently, recognizing that somehow, somewhere, she has been exposed to some terrible trauma. But it was important for Ms. Mitchell to ask questions and to get answers to those questions so we could do our job.

I appreciate Chairman GRASSLEY for doing his best to keep order in running the committee efficiently, as much as that is possible. At the first hearing, after Senators would speak over each other and would endlessly make motions that were out of order—when one Senator said, ''I am breaking the confidentiality rules,'' I said, ''This seems like a hearing by mob rule,'' not with the kind of demeanor and civility that you would expect from the U.S. Senate. I think Chairman GRASSLEY has done the best anybody could do under difficult circumstances.

As I said, this hearing was not easy for either Dr. Ford or for Judge Kavanaugh. It has been painful for everybody involved.

Thankfully, we are much closer to a resolution on this nomination. Today, there was a markup in the Judiciary Committee, and I am glad we were able to pass that nomination out of the committee to the Senate floor.

Some are saying that we are moving too fast. To them, I would say that it is pretty clear what the objective of the opponents of the nomination is. Their objective is delay, delay, delay. Some have said that their goal is to delay this confirmation past the midterm election, hope that the election turns out well for them, and essentially defeat the nomination and keep the Supreme Court vacancy open until President Trump leaves office.

First, there was the paper chase; they needed more documents or, perhaps, they said there were too many. But the question I always had is this: If you have already announced your opposition to the nominee, why do you need more information? Unless, of course, you are open to changing your mind—but it is clear that is not the game that they are engaging in here.

Now there are those who demand that the background investigation be opened into two new allegations that appeared following Dr. Ford's. Today, the majority leader and some of our colleagues have announced an agreement to extend the background investigation for up to another week for these witnesses to be interviewed by the FBI. But I would note that the most recent allegations are so absurd, are so fantastic that not even the New York Times would run a story about Judge Kavanaugh's time in college as reported by Ms. Ramirez. They worked hard to try to corroborate her story by interviewing dozens of potential witnesses. None of them would confirm or corroborate Ms. Ramirez's story, but they did find, as Ms. Ramirez was talking to one of those individuals who was interviewed, where she admitted that she may have misidentified Judge Kavanaugh. In other words, she admitted that she may have the wrong guy—not credible, not serious, but dangerous.

It is dangerous in the sense that some of our colleagues take the position that all you need to do is listen to an accusation, and that is enough to make up your mind. You don't need to listen to the other side. As Judge Kavanaugh said, in Dr. Ford's case, it didn't happen; he wasn't there. If you listen to just one side of the argument, I guess it does make making up your mind a lot easier because you don't actually have to think about it and you don't have to think about what a fair process is in order to decide whose arguments you believe or whether somebody has met the burden of showing evidence that their claim is actually true.

This has become so ridiculous that the newest claims made by a young woman named Julie Swetnick, who is represented by Stormy Daniels' lawyer, are riddled with holes. Why would a

woman continue to go to parties with high schoolers when she was in college, and why in the world would she go to not 1, not 2, but 10 of these alleged drug- and alcohol-infused parties where gang rape occurred? It is just outrageous—incredible.

We have encouraged all of these individuals, no matter how incredible the allegation may be, to work with the Judiciary Committee and submit to an interview with the bipartisan representation of the Judiciary Committee there. This is standard operating procedure for the Judiciary Committee. The basic background investigation is done by the FBI. But they are not investigating a crime; it is a background investigation in which they take notes on their conversations with witnesses. They don't tell you which witness to believe or what conclusions to draw from that. They send that to the Judiciary Committee, and the Judiciary Committee follows up with additional questions, if necessary. Lying to the FBI—just like lying to the committee—is actually a crime punishable by a felony, so both carry serious consequences and a serious warning to those who might try to lie their way into a background check.

What is so ridiculous about where we find ourselves is that in addition to Dr. Ford's confidential letter to the ranking member being released against her wishes and without her consent, contributing to this circus atmosphere as we continue to try to investigate some of these claims, the Democratic professional staff have been refusing to cooperate or participate, even as they continue to make more and more demands. It is clear that their appetite for delay is insatiable, and delay is their ultimate goal.

For those who continue to say that they want the FBI involved, I will tell them that the FBI has been and is involved. It has conducted its background investigations just as it did on the six previous occasions when Judge Kavanaugh was being vetted for other positions within the Federal Government. You heard that right: Judge Kavanaugh has been through six FBI background checks, and none of these matters have come up previously.

What we were doing yesterday with the hearing was part of our job, which is to continue the investigation. I think people have a very narrow idea of what an investigation entails. It is not just a background check by the FBI. It is the interviews by the professional staff on the Judiciary Committee, and those are the hearings like the one we had yesterday, all day, hearing from Judge Kavanaugh and Dr. Ford. That is our job; that is our constitutional role, to provide advice and consent.

Plus, if our colleagues across the aisle were really interested in a background investigation of Dr. Ford's complaints in a confidential manner, as she requested, they could have requested that be done and the results reported to us in a closed setting. What happened to Dr. Ford is inexcusable. To have a Senator sit on this allegation and refuse to turn it in to the committee so it could be investigated in a confidential way that would have protected her anonymity and would have allowed the committee to question both Judge Kavanaugh and her—that didn't happen, by design, perhaps because the goal really wasn't about giving Judge Kavanaugh or Dr. Ford a fair hearing. It was about delaying this confirmation vote.

When Judge Kavanaugh was interviewed about a week or so ago and again yesterday, he talked about a fair process—in other words, hearing from both sides of an argument. But under our constitutional system, if you are accused of a crime—and, believe me, Judge Kavanaugh has been accused of multiple crimes—you are entitled to the presumption of innocence. In other words, there is a burden to come forward with evidence to justify and support an accusation, and if you don't do that, your accusation is not enough to meet that burden.

Usually what we have are corroborating witnesses—other people present at the time who can corroborate what the allegation is. But all of the witnesses who have been identified by Dr. Ford cannot corroborate or confirm her allegation. They say that they have no memory of that or it simply didn't happen.

Even the Bible talks about the importance of corroborating witnesses. I didn't find this, but I vaguely remembered it, and someone on my staff pointed out Deuteronomy 19:15:

> One witness is not enough to convict anyone accused of any crime or offense they may have committed. A matter must be established by the testimony of two or three witnesses.

So this is a rule of ancient origin dating back to the Old Testament. That is what we are talking about today. When Dr. Ford comes with an accusation 35 or 36 years after the fact, and no one else can confirm her story, it is not enough to carry the day.

The other thing we need to be wary of is false choices. This is not a matter of he said, she said. Someone said this is a matter of he said, she said, they said: Dr. Ford said one thing; Judge Kavanaugh said another; the so-called corroborating witnesses said another. But what they said did not corroborate Dr. Ford's story. Just the contrary, they confirmed Judge Kavanaugh's denial of any participation in anything remotely like that which Dr. Ford alleges.

So after 36 years, as Ms. Mitchell was able to develop, we know, for perhaps obvious reasons, that Dr. Ford's account has some inconsistencies and some gaps regarding the timing, location, and details regarding these events. I think we need to listen to her. We need to take her story into account. As I said, I want to treat her the same way I would want my mother, sister, or daughters treated under similar circumstances. But we can't ignore the inconsistencies and the gap in her story and the fact that she has tried to tell it 36 years after the fact.

We also can't ignore the full-throated defense and the heartfelt denial of Judge Kavanaugh or the testimony that none of this is in the character of Judge Kavanaugh. We have heard that from people dating all the way back to 1982. Indeed, Ms. Mitchell—a professional prosecutor, prosecuting sex crimes in Arizona—told us last night that with her more than two decades of experience and the kind of case brought forward by Ms. Ford, she would not file those charges against a defendant because there simply is not enough evidence. In fact, the only witnesses identified by Dr. Ford denied the event actually occurred. As a matter of fact, she said that she couldn't even get a search warrant or arrest warrant in a case like this. If you can't identify the time or the place, you are not even going to be able to get a search warrant. You certainly can't show probable cause, which is required by law.

So here is where we are. If the allegations we discussed during yesterday's hearing remain uncorroborated and unproven, if it never came up in the context of six Federal background checks, if it has been explicitly denied by the nominee, if the three alleged eyewitnesses have no recollection of it or say that it didn't happen, if it conflicts with the account of some 65 women who knew the nominee to behave honorably in high school and countless more women who have known and interacted with Judge Kavanaugh since—the timing seems unusual, perhaps even politically motivated. And if our colleagues across the aisle chose not to act on this information once presented but rather to spring it on us and Judge Kavanaugh after the fact, there is no reason, in my mind, that we should not move forward with the nomination because we have seen what happens.

This is not just about Dr. Ford; it is about the subsequent allegations by Ms. Ramirez and additional allegations by Ms. Swetnick, each more salacious, each more incredible, and each more out of character with what we know about Brett Kavanaugh. And it is going to continue. The longer this nomination is unresolved, there are going to be more and more people coming out of the woodwork to make accusations that are uncorroborated and unprovable. You can imagine what this does to Judge Kavanaugh and his family as he is left hanging like a pinata, where people just come by and take another whack at him and his family.

We have to move forward. We can't establish a precedent by which a nominee can be derailed by a mere accusation that is unproven. We are never going to get good people to agree to serve in these important offices, and we can't allow the nomination process to be a drive-by character assassination that is unproven. The only ammunition our colleagues across the aisle

need in order to shoot down any figure at any time would be innuendo—innuendo, speculation, suspicion, unproven allegations, nothing more. We are not going to let that happen. We are not going to establish that precedent. It would be bad for the Senate. It would be bad for the United States of America.

Please don't misunderstand me. I am glad Dr. Ford had a chance to have her say. We owed her that much. I know it took some courage, and it is a reminder to all Americans that victims can and should be heard. As I said, I myself have two daughters. We all have a mother. Some are fortunate to have sisters or a spouse. This can be a very personal matter to every one of us. Yet we all know that all of us have fathers, and many of us have brothers. Some have husbands and sons. In other words, my point is, if this kind of uncorroborated allegation would seem so manipulated in exploiting vulnerable people who made accusations like this and we tolerate that, I think it will forever poison the confirmation process and discourage good people from coming forward.

We must always be fair to both the victims and those who stand accused. It has to be a two-way street. I have supported Judge Kavanaugh's nomination because I have known him since the year 2000. In my experience, he has always been an upstanding and certainly he is an incredibly well-qualified individual.

We have heard everybody—from his fellow lawyers to his law clerks, to women he has worked with, to former Presidents of the United States—say that. We know he has an incredible record on the DC Circuit Court of Appeals, where many of his decisions have been affirmed by the U.S. Supreme Court. I know he will judge fairly and carefully. I believe he belongs on the Nation's highest bench. In a few more days, after a few more delays, we will finally vote to put him there and say enough with the games.

I yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

DARK MONEY RULE

Mr. WYDEN. Mr. President, I am submitting two letters into the CONGRESSIONAL RECORD in order to clarify the application of the Congressional Review Act, CRA, to the recent rule Rev. Proc. 2018–38, issued by the Treasury Department and the IRS, to dramatically weaken the disclosure rules for large contributions to certain tax-exempt organizations, including many that engage in political activity, what I and others call the dark money rule. In doing so, I also want to take the opportunity to comment on the rule itself and on the inappropriate and irresponsible approach that the administration is taking to the application of the CRA to the dark money rule.

By way of background, in 1971, as part of a general effort to improve the ability of the IRS to assure that tax-exempt organizations are complying with the tax and election laws, the Treasury Department promulgated a legislative regulation requiring certain tax-exempt organizations to disclose to the IRS, as part of their annual filing, the identity of those who contribute $5,000 or more to the organization. This information is not made available to the public, except in certain cases, but it is can be used by the IRS, State tax administrators, and other Federal agencies.

In recent years, this disclosure requirement has become controversial. Some, particularly conservative groups, have called for the rule to be repealed in an attempt to keep donor information out of the hands of State tax administrators and law enforcement. Others have urged that the disclosure rules be strengthened. I am one of them. Following the 2010 Citizens United decision, more and more dark money has flooded into secretive tax-exempt organizations and into election campaigns in the form of such things as anonymous ''issue ads.'' I have urged that the contributor information be made available to the public and, further, that the IRS improve its application of the rules designed to prevent tax-exempt organizations from engaging in excessive political campaign activity under false pretenses of ''social welfare.'' For example, I have been particularly concerned about reports that a group that is tax exempt under Tax Code section 501(c)(4) that is associated with the National Rifle Association, which has engaged in extensive political activity, may have received large contributions from foreign sources.

In the midst of all of this controversy, on July 16, without any public notice and comment or any consultation with me as ranking Democratic member of the Finance Committee, the Treasury Department and the IRS issued Rev. Proc. 2018–38, which invokes a narrow provision that allows the Treasury Secretary to waive particular reporting requirements in appropriate situations, to effectively repeal the entire 1971 regulation requiring the disclosure of large contributions. Perhaps coincidentally and certainly ironically, this was done late in the evening of the day in which the Justice Department arrested an alleged Russian agent, Maria Butina, for attempting to influence American political discourse through a ''gun rights organization,'' later revealed to be the National Rifle Association, a 501(c)(4) dark money political organization.

This was an outrage. It was terrible policy and a terrible process. As I said at the time, the political brazenness of this action shocks the conscience. At a time when the U.S. intelligence community is warning that foreign actors are actively working to interfere in American elections, the Trump administration has decided to tie the hands of the only Federal agency with visibility into financial flows of foreign funds into dark money political organizations.

When the administration proposed the dark money rule, it submitted the rule to Congress for review under the CRA, which allows Congress to disapprove rules after they have been issued. The administration's submission to Congress explicitly states it was a ''Submission of Federal Rules under the Congressional Review Act.'' Senator TESTER and I were determined to invoke this process in order to overturn the dark money rule.

There was, however, a procedural problem. The CRA includes a ''clock,'' limiting the period for challenging a new rule, and, under the terms of the CRA, that clock begins on the later of the date the rule is submitted to Congress, and the date it is published in the Federal Register, ''if so published.'' In this case, apparently for the first time, we were dealing with a rule that had been submitted to Congress for review under the CRA but not published in the Federal Register because this is the sort of material that the IRS publishes in the Internal Revenue Bulletin IRB, rather than in the Federal Register. This created a technical question about how to apply the CRA time clock to the IRS rule. To be clear, the question was not whether the CRA applied to the dark money rule, but rather, when the clock for congressional review began.

After consulting with the Parliamentarian, who advised that the CRA process would be clarified if the IRS would confirm, in writing, that the rule would not be published in the Federal Register, I sent Acting IRS Commissioner David Kautter a brief letter asking him to do so. This seemed to me to be a very straightforward request. The IRS's own internal procedure manual makes clear that matters that are issued as ''revenue procedures'' are published in the IRB rather than the Federal Register. Further, an IRS official had informally confirmed by email that would be the case here. On top of that, the dark money rule was in fact published in the IRB on July 30.

I ask unanimous consent that my August 21, 2018, letter be printed in the RECORD.

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

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, DC, August 21, 2018.

Hon. DAVID KAUTTER,
Acting Commissioner and Assistant Secretary of the Treasury for Tax Policy, Internal Revenue Service, Washington, DC.

DEAR ACTING COMMISSIONER KAUTTER: As you know, on July 26, the Treasury Department and IRS submitted to the Senate,

under the Congressional Review Act (CRA), Rev. Proc. 2018–38, which modifies the information to be reported to the IRS by certain organizations exempt from tax under section 501(a) of the Internal Revenue Code.

Under the CRA, the period for potential Congressional review begins on the later of the date of submission to Congress or publication in the Federal Register, ''if so published.'' My understanding is that revenue procedures are not published in the Federal Register but instead are published in the Internal Revenue Bulletin.

In light of this, it would facilitate the Congressional review process if the IRS would confirm in writing that the IRS will not submit Rev. Proc. 2018–39 for publication in the Federal Register. I would appreciate it if you would do so.

Please call me or have a member of your staff contact Tiffany Smith or Mike Evans of the Finance Committee Democratic staff if you have any questions.

Thank you for your assistance with this.

Sincerely,

RON WYDEN,
Ranking Member,
Committee on Finance.

Mr. WYDEN. Mr. President, my letter went unanswered for almost 5 weeks. Eventually, the Parliamentarian indicated to both Democratic and Republican staff that she was prepared to allow Senator TESTER and me to move forward with a disapproval resolution under the CRA without an IRS response to my letter, so that we would not lose our right to challenge the rule on a timely basis. Based on this, on Monday, September 24, Senator TESTER and I submitted our disapproval resolution, S.J. Res. 64. That same day, I finally received a reply from Acting Commissioner Kautter. In it, he confirmed, at long last, the elementary proposition that the dark money rule would not be published in the Federal Register. In addition, he went on to discuss an issue I had not raised in my original letter. He stated that, despite the fact that the administration had formally submitted the rule to the House and Senate for review under the CRA, understanding now that Senator TESTER and I intended to challenge the rule under the CRA, the Treasury Department intended to reverse its previous decision and argue that Rev. Proc. 2018–38 was somehow not subject to congressional review.

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

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, September 24, 2018.

Hon. RON WYDEN,
Ranking Member, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Thank you for your inquiry regarding whether the IRS will submit Revenue Procedure 2018–38 for publication in the Federal Register.

Revenue procedures are not published in the Federal Register; rather, they are published in the Internal Revenue Bulletin (IRB). Revenue Procedure 2018–38 was published in IRB 2018–34 and will not be published in the Federal Register.

Not all revenue procedures, including many transmitted to Congress using the form prescribed by the Office of Management and Budget (OMB), meet the definition of a rule under the Congressional Review Act (CRA). We define a revenue procedure as ''an official statement of a procedure by the Service that affects the rights or duties of taxpayers or other members of the public under the Internal Revenue Code, related statutes, tax treaties, and regulations, or information that, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge.'' Chief Counsel Directives Manual (CCDM) section 32.2.2.3.2 (emphasis added). Procedural rules that do not substantially affect the rights or obligations of the public are not subject to the CRA. See 5 U.S.C. Section 804(3)(C).

We generally submit revenue procedures to Congress and to the Government Accountability Office (GAO) out of an abundance of caution and in the interest of keeping Congress fully informed. This longstanding practice serves two goals. First, it allows Congress to consider whether a revenue procedure is subject to the CRA by requesting advice from GAO. Second, if a revenue procedure meets the definition of a rule under the CRA, the consequences of failing to submit it when required are significant. Because rules are effective only after submission to Congress, a revenue procedure that is later deemed to be a rule would not be effective if it had not been submitted following the CRA. Consequently, our submission of a revenue procedure using the standard CRA form prescribed by OMB does not necessarily indicate that we have determined the revenue procedure is subject to the CRA.

We do not believe Revenue Procedure 2018–38 is a ''rule'' within the meaning of the CRA, and we are consulting with GAO on this matter. See 5 U.S.C. Section 804(3)(C). In this revenue procedure, we exercised our discretion under existing regulations to limit our receipt of personally identifiable donor information that is not necessary for efficient tax administration. The revenue procedure did not alter the substantive standards or criteria that apply to tax exempt organizations, nor did it alter the requirement that organizations maintain donor information and submit the information to the IRS upon request. The revenue procedure imposed no new substantive burdens and in no way limited public access to return information that was previously open to public inspection. For these reasons, we believe Revenue Procedure 2018–38 is exempt from the CRA.

I hope this information is helpful. If you have questions, please contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs.

Sincerely,

DAVID J. KAUTTER,
Acting Commissioner.

Mr. WYDEN. Mr. President, acting Commissioner Kautter's response is deeply troubling, for several reasons.

First, why did it take so long? Every bureaucracy has its problems, but almost 5 weeks, on a time-sensitive matter, the answer to which should be clear in 5 minutes? As I said on the Senate floor last week: ''It looks to me like the administration has a policy on their hands that they know is corrupt—that they know is undemocratic. And so they're playing hide the ball. Because the more the public hears about this dark money rule, the less they like it.''

Further, the argument Acting Commissioner Kautter makes in the letter is utter nonsense. In the first place, he mischaracterizes the CRA, in a way that would render the entire law unworkable. For over 20 years, here is how the CRA has worked: If the administration submits something to Congress under the CRA, that is that; it is subject to congressional review under the terms of the CRA. In the Senate, that means the clock starts, and the period for the consideration of a disapproval resolution begins. If, on the other hand, the administration does not submit a matter under the CRA, but a Senator or Representative believes that the matter nevertheless should be subject to the CRA, that Senator or Congressman can ask the Government Accountability Office to review whether the CRA applies. This has happened about 20 times since 1996. Congress has never required the GAO to opine on the applicability of the CRA to a rule formally submitted by an agency to the Congress for review under the CRA. In Acting Commissioner Kautter's letter, he fabricates out of whole cloth a new requirement for congressional review, which runs counter to precedent established over the past two decades.

Acting Commissioner Kautter takes the position that the administration's submission of the rule under the CRA is not dispositive. It is, instead, just a starting point, to, as he writes, ''allow[ ] Congress to consider whether a revenue procedure is subject to the CRA by requesting advice from GAO.'' This is unprecedented because all previous requests to GAO related to matters that had not been submitted under the CRA. It is inconsistent with the plain text of the CRA and with longstanding practice, in which we only resort to a GAO opinion for matters that have not already been submitted under the CRA. It also is completely unworkable because it would require GAO to review every rule submitted under the CRA, to confirm that it is indeed subject to the CRA. Said another way, it would require the Senate to look behind all 4,271 rules submitted by agencies to the Senate in this Congress under the CRA to determine if the CRA, in fact, applied. We cannot have ''do-overs'' here.

Second, Acting Commissioner Kautter's position is inconsistent with administration practice. In submitting the dark money rule to the Senate, the administration was not simply trying to be courteous and transparent, making sure the Senate was aware of the latest developments at the IRS. It was, instead, complying with the CRA, based on a determination that the rule was subject to the CRA.

This is reflected in the process established in the Internal Revenue Manual, IRM. One section of the IRM relates to ''Congressional Review of Rules.'' After describing the CRA general rule and three exceptions, the IRM says, ''Revenue rulings, revenue procedures, notices, and announcements that are rules under the [CRA] must be submitted for congressional review before they can become effective. Whether a revenue ruling, revenue procedure, notice, or announcement is considered a

rule subject to reporting is determined on a case-by-case basis. Ministerial revenue rulings and revenue procedures; notices and announcements relating to error corrections, personnel matters, or proposed rules; and press releases generally will not be considered rules under [the CRA].''

Thus, the IRS's own process requires the agency to determine, on a case-by-case basis, whether a document issued by the IRS constitutes a rule for purpose of the CRA. The IRS in fact exercises judgment about whether to submit a revenue procedure as a rule under the CRA: As of September 10, the IRS had issued 45 revenue procedures in 2018, only 27 of which were submitted to the Senate. Specifically, in this case, on July 26, over the signature of the Chief of the IRS Publications and Regulations Branch, the IRS and the Treasury Department submitted, to Vice President Pence, as President of the Senate, a copy of Rev. Proc. 2018–38, entitled a Submission of Federal Rules under the Congressional Review Act. The submission was docketed in the Senate as EC–6097, and it was referred to the Finance Committee.

Finally, even if the administration had not submitted the dark money rule under the CRA, there is no question the rule is subject to the CRA. The CRA applies to rules as defined under the Administrative Procedure Act, which states in relevant part that a rule is ''the whole or part of an agency statement of general . . . applicability and future effect designed to implement, interpret, or prescribe law or policy,'' with three exceptions: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that does not substantially affect the rights or obligations of nonagency parties.

The dark money rule is clearly a statement of general applicability and future effect. The only real question, then, is whether it is subject to one of the exceptions, particularly the exception for ''rules of agency organization, procedure, or practice that [do] not substantially affect the rights or obligations of non-agency parties.''

Here, it is clear that the rule has a substantial effect on nonagency parties. Under the provisions of IRC section 6103, State tax administrators may obtain from IRS tax-exempt donor information for State tax administration purposes. As a result of Rev. Proc. 2018–38, State tax administrators will no longer have the right to obtain donor information from the IRS, undermining States' ability to enforce tax-exempt rules on organizations operating within their borders. Further, as the Treasury Department clearly stated in a July 16 press release, Rev. Proc. 2018–38 will reduce the burden of disclosure and filing obligations of tax-exempt organizations because they no longer will be required to disclose the identifies of large donors. This is a big deal. It will significantly inhibit IRS enforcement efforts, and it will make it easier for dark money to continue to flood in. Indeed, that is why so many groups have been urging that the disclosure requirement be repealed.

As a final note, the IRS may argue that repeal of the disclosure rule is insignificant because the IRS doesn't systematically cross-check this data against other sources of tax information. This is a large part of the problem of IRS failing to enforce existing laws relating to political activity of tax-exempt organizations. To my mind, the IRS should be using this information in order to maintain the integrity of our tax-exempt rules and election laws. If, for example, an organization named Russian Oligarchs, LLC made large contributions to a tax-exempt organization, it seems to me that this is something the IRS should want to know. At a time when foreign actors are actively attempting to interfere in American elections, law enforcement, the IRS, and State tax administrators need to have visibility into the financial flows of political nonprofits. The argument that we should no longer collect this information because the IRS is failing to use the information to enforce the law gets things precisely backward.

I urge my colleagues to support Senator TESTER and me as we work to overturn this outrageous dark money rule.

MALNUTRITION AWARENESS WEEK

Mrs. MURRAY. Mr. President, I rise today in recognition of this week as Malnutrition Awareness Week.

Malnutrition Awareness Week is a multi-organizational, multipronged campaign that aims to educate healthcare professionals on how to identify and treat malnutrition, encourage patients to discuss their nutrition status with their healthcare providers, and increase awareness of nutrition's role in patient recovery.

While we know malnutrition can severely impact patients' health outcomes, we do not currently know the full extent of malnutrition plaguing our senior population. This is because national health surveys and indicators do not include screening measures for malnutrition. National surveys and indicators are crucial not only for identifying key issues, such as malnutrition, but also for shaping public health programs and guiding healthcare professionals. By fully understanding the health problem, we can refine these tools to better address health issues affecting older adults.

Similarly, older adults and their families need guidance on how to meet seniors' unique nutrition needs. National dietary guidelines, developed every 5 years by the Departments of Health and Human Services and of Agriculture, provide valuable information to the public in regard to a healthy diet. These guidelines are examples of Federal resources that could be tailored to reflect the nutritional needs of specific populations, such as older adults.

Since malnutrition can lead to greater risk of chronic disease, frailty, disability, and increases in health care costs, it is important to properly identify cases and provide adequate interventions, even as people transition across care settings. To strive toward this goal, we must consider options within the healthcare system and our Federal programs to improve care and nutritional support for older adults.

This week is an important opportunity to remember that the nutritional challenges facing people of all ages, and I hope my colleagues will join me in working to understand and address these challenges.

NATIONAL RICE MONTH

Mr. KENNEDY. Mr. President, I want to take a moment to honor the more than 125,000 hard-working men and women who work in America's rice industry. September is National Rice Month, and it is also the start of our domestic rice harvest. This year, roughly 23 billion pounds of rice will be grown on 3 million acres of farmland. 85 percent of the rice eaten in America comes from just 6 States: Arkansas, California, Mississippi, Missouri, Texas, and my home State of Louisiana.

Rice isn't just delicious in jambalaya or seafood gumbo; it is an indispensable part of Louisiana's economy. The 4,500 members of the Louisiana rice industry generate more than $700 million in economic benefits for the State. These small businesses not only put food on the table of America's families, but they also employ tens of thousands of workers. Altogether, America's rice crop has a $34 billion impact on our national economy.

Rice farmers are also careful stewards of our Nation's precious natural resources. Over the past 20 years, rice farmers have been able to increase their yields by as much as 50 percent. They have achieved this while using less land, less water, and less energy. American rice shines as a bright example of sustainable agriculture and the benefits of effective agricultural research.

America was born on a farm. The importance of farming to the U.S. economy cannot be overstated; agriculture provides jobs for nearly 1 in 7 Americans. While rice is a valuable export, I am pleased to say that nearly all of our domestic rice crop is consumed right here. For these and many other reasons, I am proud to celebrate National Rice Month and the world's most popular grain. I also want to extend my heartfelt support and gratitude to all American rice farmers, particularly those in the great State of Louisiana. Keep up the good work.

ADDITIONAL STATEMENTS

RECOGNIZING THE ANCIENT AND HONORABLE ARTILLERY COMPANY OF MASSACHUSETTS

• Mr. MARKEY. Mr. President, today I would like to honor the Ancient and Honorable Artillery Company of Massachusetts—the oldest chartered military organization in the Western Hemisphere—on its 381st Fall Field Day Tour of Duty. Its charter was signed in 1638 by John Winthrop, then-Governor of the Massachusetts Bay Colony. The Ancient and Honorables continue to serve the Commonwealth as a vital part of its militia, subject to the direction of the adjutant general of the Massachusetts National Guard.

Although the Ancient and Honorables have long served as the honor guard for the Governor of the Commonwealth, they continue to play an integral role in the State's civic rituals. Among their responsibilities, they participate in the inaugurals of State constitutional officers, the annual State of the Commonwealth address, and the yearly celebration of the Constitution of the United States from the historic State house in the heart of old Boston, but most importantly, they stand ready to assist in times of peril or emergency.

May the Ancient and Honorable Artillery Company of Massachusetts long continue its role in fostering, supporting, and preserving the civic life of the city of Boston, the Commonwealth of Massachusetts, and the United States of America. The Ancients serve as world ambassadors of the United States, where, on their Fall Field Day Tour of Duty, they pay their respects to fallen soldiers of all nations who have paid the ultimate sacrifice in defense of freedom.

Today I would like to recognize the Ancient and Honorable Artillery Company of Massachusetts for their civic responsibilities, patriotic duties, and community service. May they continue their proud traditions for many years to come.•

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:02 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 791. An act to amend the Small Business Act to expand intellectual property education and training for small businesses, and for other purposes.

S. 1668. An act to rename a waterway in the State of New York as the ''Joseph Sanford Jr. Channel''.

S. 2554. An act to ensure that health insurance issuers and group health plans do not prohibit pharmacy providers from providing certain information to enrollees.

S. 2559. An act to amend title 17, United States Code, to implement the Marrakesh Treaty, and for other purposes.

S. 3479. An act to amend title 38, United States Code, to extend certain expiring provisions of law administered by the Secretary of Veterans Affairs, and for other purposes.

H.R. 4854. An act to amend the DNA Analysis Backlog Elimination Act of 2000 to provide additional resources to State and local prosecutors, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. HATCH).

At 4:48 p.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, without amendment:

S. 3508. An act to reauthorize and amend the Marine Debris Act to promote international action to reduce marine debris, and for other purposes.

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

H.R. 1093. An act to require the Federal Railroad Administration to provide appropriate congressional notice of comprehensive safety assessments conducted with respect to intercity or commuter rail passenger transportation.

H.R. 6756. An act to amend the Internal Revenue Code of 1986 to promote new business innovation, and for other purposes.

H.R. 6757. An act to amend the Internal Revenue Code of 1986 to encourage retirement and family savings, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1595. An act to amend the Hizballah International Financing Prevention Act of 2015 to impose additional sanctions with respect to Hizballah, and for other purposes.

The message also announced that the House has agreed to the amendment of the Senate to the bill (H.R. 302) to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State, with an amendment, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The President pro tempore (Mr. HATCH) announced that on today, September 28, 2018, he has signed the following enrolled bills, previously signed by the Speaker of the House:

H.R. 46. An act to authorize the Secretary of the Interior to conduct a special resource study of Fort Ontario in the State of New York.

H.R. 2259. An act to amend the Peace Corps Act to expand services and benefits for volunteers, and for other purposes.

H.R. 1551. An act to modernize copyright law, and for other purposes.

H.R. 4958. An act to increase, effective as of December 1, 2018, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

MEASURES REFERRED

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

H.R. 1093. An act to require the Federal Railroad Administration to provide appropriate congressional notice of comprehensive safety assessments conducted with respect to intercity or commuter rail passenger transportation, to the Committee on Commerce, Science, and Transportation.

H.R. 6756. An act to amend the Internal Revenue Code of 1986 to promote new business innovation, and for other purposes; to the Committee on Finance.

H.R. 6757. An act to amend the Internal Revenue Code of 1986 to encourage retirement and family savings, and for other purposes; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3532. A bill to authorize the United States Postal Service to provide certain nonpostal property, products, and services on behalf of State, local, and tribal governments.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 28, 2018, she had presented to the President of the United States the following enrolled bills:

S. 791. An act to amend the Small Business Act to expand intellectual property education and training for small businesses, and for other purposes.

S. 1668. An act to rename a waterway in the State of New York as the ''Joseph Sanford Jr. Channel''.

S. 2559. An act to amend title 17, United States Code, to implement the Marrakesh Treaty, and for other purposes.

S. 3479. An act to amend title 38, United States Code, to extend certain expiring provisions of law administered by the Secretary of Veterans Affairs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–6624. A communication from the Chief of the Recruiting Policy Branch, Department of the Army, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Recruiting and Enlistments'' ((RIN0702–AA78) (32 CFR Part 571)) received

in the Office of the President of the Senate on September 26, 2018; to the Committee on Armed Services.

EC–6625. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 12978 of October 21, 1995, with respect to significant foreign narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–6626. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility; South Carolina: Camden, City of, Kershaw County, et al'' ((44 CFR Part 64) (Docket No. FEMA–2018–0002)) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Banking, Housing, and Urban Affairs.

EC–6627. A communication from the Director of Public Affairs, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Protection Against Malevolent Use of Vehicles at Nuclear Power Plants'' (NRC–2018–0206) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Environment and Public Works.

EC–6628. A communication from the Director of Public Affairs, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'' (Reg. Guide 1.160, Revision 4) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Environment and Public Works.

EC–6629. A communication from the Director of Public Affairs, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Preparation of Environmental Report for Nuclear Power Stations'' (Reg. Guide 4.2, Revision 3) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Environment and Public Works.

EC–6630. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report entitled ''Medicare Payments for Clinical Diagnostic Laboratory Tests in 2017: Year 4 of Baseline Data''; to the Committee on Finance.

EC–6631. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance under Section 132(g) for the Exclusion from Income of Qualified Moving Expense Reimbursements'' (Notice 2018–75) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Finance.

EC–6632. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Changes in Accounting Periods and in Methods of Accounting'' (Rev. Proc. 2018–44) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Finance.

EC–6633. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Employer Credit for Paid Family and Medical Leave'' (Notice 2018–71) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Finance.

EC–6634. A communication from the Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Mergers and Transfers Between Multiemployer Plans'' (RIN1212–AB31) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Health, Education, Labor, and Pensions.

EC–6635. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation: Small Entity Compliance Guide'' ((48 CFR Part 1) (FAC 2005–101)) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Homeland Security and Governmental Affairs.

EC–6636. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation: One Dollar Coin'' ((RIN9000–AN70) (48 CFR Parts 37 and 52)) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Homeland Security and Governmental Affairs.

EC–6637. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation: System for Award Management Registration'' ((RIN9000–AN19) (FAC 2005–101)) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Homeland Security and Governmental Affairs.

EC–6638. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation: Introduction'' ((48 CFR Part 1) (FAC 2005–101)) received in the Office of the President of the Senate on September 26, 2018; to the Committee on Homeland Security and Governmental Affairs.

EC–6639. A communication from the Aviation Enforcement Attorney, Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Increasing Charter Air Transportation Options'' (RIN2105–AD66) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6640. A communication from the Attorney-Advisor, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service Recordkeeping; Automated Recordkeeping'' ((RIN2130–AC41) (49 CFR Part 228)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6641. A communication from the Paralegal Specialist, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Capital Leases'' (RIN2132–AB34) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6642. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0766)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6643. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0300)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6644. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0411)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6645. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0364)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6646. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0361)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6647. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled'' Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0390)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6648. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0365)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6649. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0396)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6650. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0765))

received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6651. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0506)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6652. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2017–0554)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6653. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0454)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6654. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0493)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6655. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0416)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6656. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0789)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6657. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0169)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6658. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus SAS Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0613)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6659. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2018–0384)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6660. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A. (CASA)) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0552)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6661. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2018–0418)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6662. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0031)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6663. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0272)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6664. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0163)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6665. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0112)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6666. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0273)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6667. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Inc., Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0118)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6668. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Fokker Services B.V. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0448)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6669. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Inc., Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2018–0036)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6670. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab AB Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0271)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6671. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; ATR–GIE Avions de Transport Regional Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2018–0391)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6672. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Linstrandt Propane Cylinders'' ((RIN2120–AA64) (Docket No. FAA–2018–0754)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6673. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Learjet, Inc.'' ((RIN2120–AA64) (Docket No. FAA–2018–0327)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6674. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of

Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–1122) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6675. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Deutschland Ltd and Co KG Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–1050)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6676. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–0777)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6677. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell International Inc. Turboprop and Turboshaft Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–0479)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6678. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Deutschland Ltd and Co KG Tay 620–15 Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–0235)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6679. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; GE Aviation Czech s.r.o. Turboprop Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–0723)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6680. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2018–0792)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6681. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney Division Turbofan'' ((RIN2120–AA64) (Docket No. FAA–2018–1107)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6682. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Bloomsburg, PA'' ((RIN2120–AA66) (Docket No. FAA–2017–1043)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6683. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Louisville, KY'' ((RIN2120–AA66) (Docket No. FAA–2018–0825)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6684. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Olive Branch, MS'' ((RIN2120–AA66) (Docket No. FAA–2018–0810)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6685. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Pensacola, FL and Establishment of Class E Airspace; Milton, FL'' ((RIN2120–AA66) (Docket No. FAA–2018–0062)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6686. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Austin, TX; and Establishment of Class E Airspace; Georgetown, TX, and Austin, TX'' ((RIN2120–AA66) (Docket No. FAA–2018–0138)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6687. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Eastover, SC and Sumter, SC'' ((RIN2120–AA66) (Docket No. FAA–2018–0131)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6688. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Lynchburg, VA'' ((RIN2120–AA66) (Docket No. FAA–2018–0727)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6689. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Williamsport, PA'' ((RIN2120–AA66) (Docket No. FAA–2018–0322)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6690. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Chicago Class B and Chicago Class C Airspace; Chicago, IL'' ((RIN2120–AA66) (Docket No. FAA–2018–0632)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6691. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Kamuela, HI'' ((RIN2120–AA66) (Docket No. FAA–2017–1145)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6692. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace and Class E Airspace, and Revocation of Class E Airspace; New Smyrna Beach, FL'' ((RIN2120–AA66) (Docket No. FAA–2018–0328)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6693. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Lyons, KS'' ((RIN2120–AA66) (Docket No. FAA–2018–0139)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6694. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Prohibition Against Certain Flights in the Pyongyang Flight Information Region (FIR) (ZKKP)'' ((RIN2120–AA66) (Docket No. FAA–2018–0838)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6695. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class E Airspace; Crows Landing, CA'' ((RIN2120–AA66) (Docket No. FAA–2017–1088)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6696. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D and E Airspace, and Amendment of Class E Airspace; Austin, TX'' ((RIN2120–AA66) (Docket No. FAA–2017–9378)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6697. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Chebeague Island, ME'' ((RIN2120–AA66) (Docket No. FAA–2018–0475)) received in the Office of the President

of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6698. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Los Angeles, CA'' ((RIN2120–AA66) (Docket No. FAA–2017–1202)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6699. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Washington Island, WI'' ((RIN2120–AA66) (Docket No. FAA–2018–0018)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6700. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification and Establishment of Restricted Areas; Townsead, GA'' ((RIN2120–AA66) (Docket No. FAA–2015–3338)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6701. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Designations; Incorporation by Reference'' ((RIN2120–AA66) (Docket No. FAA–2018–0770)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6702. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment and Modification of Area Navigation Routes, Florida Metroplex Project; Southeastern United States'' ((RIN2120–AA66) (Docket No. FAA–2018–0437)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6703. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Air Traffic Service (ATS) Routes in the Vicinity of Mattoon and Charleston, IL'' ((RIN2120–AA66) (Docket No. FAA–2018–0219)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6704. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Designations; Incorporation by Reference'' ((RIN2120–AA66) (Docket No. FAA–2018–0770)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6705. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Class E Airspace; Springfield, OH'' ((RIN2120–AA66) (Docket No. FAA–2017–1051)) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6706. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (28)'' (RIN2120–AA65) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6707. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (62)'' (RIN2120–AA65) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6708. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (133)'' (RIN2120–AA65) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

EC–6709. A communication from the Management and Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (109)'' (RIN2120–AA65) received in the Office of the President of the Senate on September 25, 2018; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 606. A bill to designate the facility of the United States Postal Service located at 1025 Nevin Avenue in Richmond, California, as the ''Harold D. McCraw, Sr., Post Office Building''.

H.R. 1209. A bill to designate the facility of the United States Postal Service located at 901 N. Francisco Avenue, Mission, Texas, as the ''Mission Veterans Post Office Building''.

H.R. 2979. A bill to designate the facility of the United States Postal Service located at 390 West 5th Street in San Bernardino, California, as the ''Jack H. Brown Post Office Building''.

S. 3209. A bill to designate the facility of the United States Postal Service located at 413 Washington Avenue in Belleville, New Jersey, as the ''Private Henry Svehla Post Office Building''.

H.R. 3230. A bill to designate the facility of the United States Postal Service located at 915 Center Avenue in Payette, Idaho, as the ''Harmon Killebrew Post Office Building''.

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, with amendments and an amendment to the title:

S. 3237. A bill to designate the facility of the United States Postal Service located at 120 12th Street Lobby in Columbus, Georgia, as the ''Richard W. Williams Chapter of the Triple Nickles (555th P.I.A.) Post Office''.

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 3414. A bill to designate the facility of the United States Postal Service located at 20 Ferry Road in Saunderstown, Rhode Island, as the ''Captain Matthew J. August Post Office''.

S. 3442. A bill to designate the facility of the United States Postal Service located at 105 Duff Street in Macon, Missouri, as the ''Arla W. Harrell Post Office''.

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, with amendments and an amendment to the title:

H.R. 4407. A bill to designate the facility of the United States Postal Service located at 3s101 Rockwell Street in Warrenville, Illinois, as the ''Corporal Jeffery Allen Williams Post Office Building''.

By Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 4890. A bill to designate the facility of the United States Postal Service located at 9801 Apollo Drive in Upper Marlboro, Maryland, as the ''Wayne K. Curry Post Office Building''.

H.R. 4913. A bill to designate the facility of the United States Postal Service located at 816 East Salisbury Parkway in Salisbury, Maryland, as the ''Sgt. Maj. Wardell B. Turner Post Office Building''.

H.R. 4946. A bill to designate the facility of the United States Postal Service located at 1075 North Tustin Street in Orange, California, as the ''Specialist Trevor A. Win'E Post Office''.

H.R. 4960. A bill to designate the facility of the United States Postal Service located at 511 East Walnut Street in Columbia, Missouri, as the ''Spc. Sterling William Wyatt Post Office Building''.

H.R. 5349. To designate the facility of the United States Postal Service located at 1325 Autumn Avenue in Memphis, Tennessee, as the ''Judge Russell B. Sugarmon Post Office Building''.

H.R. 5504. A bill to designate the facility of the United States Postal Service located at 4801 West Van Giesen Street in West Richland, Washington, as the ''Sergeant Dietrich Schmieman Post Office Building''.

H.R. 5737. A bill to designate the facility of the United States Postal Service located at 108 West D Street in Alpha, Illinois, as the ''Captain Joshua E. Steele Post Office''.

H.R. 5784. To designate the facility of the United States Postal Service located at 2650 North Doctor Martin Luther King Jr. Drive in Milwaukee, Wisconsin, shall be known and designated as the ''Vel R. Phillips Post Office Building''.

H.R. 5868. A bill to designate the facility of the United States Postal Service located at 530 Claremont Avenue in Ashland, Ohio, as the ''Bill Harris Post Office''.

H.R. 5935. A bill to designate the facility of the United States Postal Service located at 1355 North Meridian Road in Harristown, Illinois, as the ''Logan S. Palmer Post Office''.

H.R. 6116. A bill to designate the facility of the United States Postal Service located at 362 North Ross Street in Beaverton, Michigan, as the ''Colonel Alfred Asch Post Office''.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. GRASSLEY for the Committee on the Judiciary.

Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. NELSON (for himself and Mr. RUBIO):

S. 3525. A bill to designate the facility of the United States Postal Service located at 7521 Paula Drive in Tampa, Florida, as the ''Major Andreas O'Keeffe Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRUZ:

S. 3526. A bill to amend title II of the Social Security Act to replace the windfall elimination provision with a formula equalizing benefits for certain individuals with non-covered employment, and for other purposes; to the Committee on Finance.

By Mr. MARKEY (for himself and Ms. WARREN):

S. 3527. A bill to extend the authorization for the Cape Cod National Seashore Advisory Commission; to the Committee on Energy and Natural Resources.

By Ms. STABENOW:

S. 3528. A bill to amend title 38, United States Code, to furnish hospital care and medical services to veterans, members of the reserve components of the Armed Forces, and dependents who were stationed at Wurtsmith Air Force Base in Oscoda, Michigan, and were exposed to volatile organic compounds, to provide for a presumption of service connection for those veterans and members of the reserve components, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. STABENOW:

S. 3529. A bill to amend title 38, United States Code, to furnish hospital care and medical services to veterans, members of the reserve components of the Armed Forces, and dependents who were stationed at military installations at which they were exposed to perfluorooctanoic acid or other per- and polyfluoroalkyl substances, to provide for a presumption of service connection for those veterans and members of the reserve components, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REED (for himself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. MURKOWSKI, Mr. WHITEHOUSE, Ms. WARREN, Mr. KING, Mr. JONES, Mr. KAINE, Ms. HASSAN, Mr. BLUMENTHAL, and Mr. CASEY):

S. 3530. A bill to reauthorize the Museum and Library Services Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASSIDY:

S. 3531. A bill to amend titles XVIII and XIX of the Social Security Act to provide coverage under Medicare and Medicaid of services furnished by freestanding emergency centers; to the Committee on Finance.

By Mr. HATCH:

S. 3532. A bill to authorize the United States Postal Service to provide certain nonpostal property, products, and services on behalf of State, local, and tribal governments; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. NELSON (for himself, Mr. THUNE, Mr. PETERS, and Mrs. FISCHER):

S. Res. 660. A resolution expressing support for the designation of the week of September 23 through September 29, 2018, as Rail Safety Week in the United States, and supporting the goals and ideals of Rail Safety Week to reduce rail-related accidents, fatalities, and injuries; to the Committee on Commerce, Science, and Transportation.

By Mr. SCOTT (for himself, Mr. BOOKER, Mr. RUBIO, Mr. BROWN, Mr. ISAKSON, Ms. WARREN, and Mr. COONS):

S. Res. 661. A resolution expressing support for the designation of September 2018 as ''Sickle Cell Disease Awareness Month'' in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to sickle cell disease, complications from sickle cell disease, and conditions related to sickle cell disease; considered and agreed to.

By Ms. COLLINS (for herself and Mr. CARPER):

S. Res. 662. A resolution designating September 2018 as ''Campus Fire Safety Month''; considered and agreed to.

By Ms. STABENOW:

S. Con. Res. 49. A concurrent resolution providing for a correction in the enrollment of S. 2553; considered and agreed to.

ADDITIONAL COSPONSORS

S. 793

At the request of Mr. BOOKER, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 793, a bill to prohibit sale of shark fins, and for other purposes.

S. 1364

At the request of Mr. MENENDEZ, the name of the Senator from Virginia (Mr. KAINE) was added as a cosponsor of S. 1364, a bill to establish within the Smithsonian Institution the National Museum of the American Latino, and for other purposes.

S. 2127

At the request of Ms. MURKOWSKI, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 2127, a bill to award a Congressional Gold Medal, collectively, to the United States merchant mariners of World War II, in recognition of their dedicated and vital service during World War II.

S. 2568

At the request of Mr. BROWN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2568, a bill to amend section 5000A of the Internal Revenue Code of 1986 to provide an additional religious exemption from the individual health coverage mandate, and for other purposes.

S. 2852

At the request of Mr. CASEY, the name of the Senator from Illinois (Ms. DUCKWORTH) was added as a cosponsor of S. 2852, a bill to reauthorize certain programs under the Pandemic and All-Hazards Preparedness Reauthorization Act.

S. 2918

At the request of Ms. HARRIS, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from New Jersey (Mr. BOOKER) were added as cosponsors of S. 2918, a bill to amend the Religious Freedom Restoration Act of 1993 to protect civil rights and otherwise prevent meaningful harm to third parties, and for other purposes.

S. 2971

At the request of Mr. BOOKER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2971, a bill to amend the Animal Welfare Act to prohibit animal fighting in the United States territories.

S. 3049

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3049, a bill to amend the Help America Vote Act of 2002 to require paper ballots and risk-limiting audits in all Federal elections, and for other purposes.

S. 3063

At the request of Mr. BARRASSO, the name of the Senator from North Carolina (Mr. TILLIS) was added as a cosponsor of S. 3063, a bill to delay the reimposition of the annual fee on health insurance providers until after 2020.

S. 3181

At the request of Ms. KLOBUCHAR, the names of the Senator from Kansas (Mr. MORAN), the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from Maine (Mr. KING) were added as cosponsors of S. 3181, a bill to direct the Secretary of Defense to include in periodic health assessments, separation history and physical examinations, and other assessments an evaluation of whether a member of the Armed Forces has been exposed to open burn pits or toxic airborne chemicals, and for other purposes.

S. 3339

At the request of Mr. GRASSLEY, the names of the Senator from Utah (Mr. LEE), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Texas (Mr. CRUZ) were added as cosponsors of S. 3339, a bill to amend title 28, United States Code, to permit other courts to transfer certain cases to United States Tax Court.

S. 3359

At the request of Ms. HARRIS, the names of the Senator from Missouri (Mr. BLUNT) and the Senator from Colorado (Mr. GARDNER) were added as cosponsors of S. 3359, a bill to posthumously award a Congressional Gold Medal to Aretha Franklin in recognition of her contributions of outstanding artistic and historical significance to culture in the United States.

S. 3440

At the request of Mr. SCHUMER, the name of the Senator from Maine (Mr.

KING) was added as a cosponsor of S. 3440, a bill to require the Bureau of Economic Analysis of the Department of Commerce to provide estimates relating to the distribution of aggregate economic growth across specific percentile groups of income.

S. RES. 220

At the request of Mr. MENENDEZ, the name of the Senator from Maine (Mr. KING) was added as a cosponsor of S. Res. 220, a resolution expressing solidarity with Falun Gong practitioners who have lost lives, freedoms, and rights for adhering to their beliefs and practices and condemning the practice of non-consenting organ harvesting, and for other purposes.

S. RES. 527

At the request of Mr. PERDUE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. Res. 527, a resolution congratulating the people of Georgia on the 100th anniversary of its declaration of independence as a democratic republic and reaffirming the strength of the relationship between the United States and Georgia.

S. RES. 633

At the request of Mrs. MCCASKILL, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Washington (Mrs. MURRAY), the Senator from Hawaii (Mr. SCHATZ) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. Res. 633, a resolution expressing the sense of the Senate that Congress should take all appropriate measures to ensure that the United States Postal Service remains an independent establishment of the Federal Government and is not subject to privatization.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself, Ms. COLLINS, Mrs. GILLIBRAND, Ms. MURKOWSKI, Mr. WHITEHOUSE, Ms. WARREN, Mr. KING, Mr. JONES, Mr. KAINE, Ms. HASSAN, Mr. BLUMENTHAL, and Mr. CASEY):

S. 3530. A bill to reauthorize the Museum and Library Services Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I am pleased to be joined by a group of members on both sides of the aisle and in both bodies in introducing legislation today to renew the law that expands the reach of libraries and museums and enables them to better serve their communities. These vital institutions educate, inform, engage, and connect people from all walks of life.

Our legislation, the Museum and Library Services Act of 2018, is similar to legislation I also introduced on a bipartisan basis in December. That legislation was developed with input and insights from the library and museum communities. Since that time, it became apparent in the library community that a vital change was needed to ensure that funding increases for the State formula grant program would be more broadly shared by States around the Nation. Under the current formula, smaller States have seen little in the way of new funding even as funding significantly increased over the last few years. The last time we addressed this issue was in 2003, and an update, while ensuring no State would lose funding, is needed today so that more communities can benefit from increased investments in our Federal library program.

I am grateful our revised bill has the support of the American Library Association, the American Alliance of Museums, and many of their affiliated associations. I thank Senators COLLINS, GILLIBRAND, MURKOWSKI, and our many colleagues who are joining us in introducing this bill today. I look forward to working with them and the entire Senate on moving this bill swiftly to passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 660—EXPRESSING SUPPORT FOR THE DESIGNATION OF THE WEEK OF SEPTEMBER 23 THROUGH SEPTEMBER 29, 2018, AS RAIL SAFETY WEEK IN THE UNITED STATES, AND SUPPORTING THE GOALS AND IDEALS OF RAIL SAFETY WEEK TO REDUCE RAIL-RELATED ACCIDENTS, FATALITIES, AND INJURIES

Mr. NELSON (for himself, Mr. THUNE, Mr. PETERS, and Mrs. FISCHER) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 660

Whereas the first Rail Safety Week was held from September 24 through September 30, 2017, by the national education safety nonprofit Operation Lifesaver, the Department of Transportation, and other organizations;

Whereas Rail Safety Week was launched to raise awareness about the need for increased education on how to be safe around highway-rail grade crossings and railroad tracks, and to highlight efforts to further reduce collisions, injuries, and fatalities;

Whereas highway-rail grade crossing and trespassing accidents constituted approximately 96 percent of all rail related fatalities in fiscal year 2017;

Whereas the number of public crossings has declined 8 percent, while the number of gates increased by 30 percent, since 2005;

Whereas, in 2017, 49 percent of all grade crossing collisions and 61 percent of all fatal grade crossing collisions occurred at gated crossings;

Whereas while grade crossing injuries are 16 percent lower, grade crossing fatalities are 6 percent lower, and grade crossing collisions are 13 percent lower since 2008, challenges remain;

Whereas, in 2017, there were 824 rail-related fatalities and 8,712 rail-related injuries in the United States;

Whereas preliminary Federal statistics show that more than 2,117 highway-grade crossing crashes occurred during 2017, resulting in 272 persons killed and another 833 injured across the United States;

Whereas trespassing incidents on railroad property resulted in 512 persons killed and another 508 injured across the Nation in 2017;

Whereas many collisions between trains and motor vehicles or pedestrians could have been prevented by increased education, engineering, and enforcement;

Whereas Operation Lifesaver, the foremost public information and education program on rail safety, administers a public education program about grade-crossing safety and prevention of trespassing;

Whereas during Rail Safety Week, from September 23 through 29, and throughout the year, everyone is encouraged to observe added caution as motorists or pedestrians approach tracks or trains;

Whereas, for the first time, the United States and Canada will observe Rail Safety Week concurrently; and

Whereas this important observance should lead to greater safety awareness and a reduction in highway-rail grade crossing crashes and pedestrian and railroad incidents: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of Rail Safety Week;

(2) expresses strong support for the goals and ideals of Rail Safety Week and efforts to reduce rail-related accidents, fatalities, and injuries; and

(3) encourages the people of the United States to participate in Rail Safety Week events and activities and to educate themselves and others on how to be safe around railroad tracks.

SENATE RESOLUTION 661—EXPRESSING SUPPORT FOR THE DESIGNATION OF SEPTEMBER 2018 AS ''SICKLE CELL DISEASE AWARENESS MONTH'' IN ORDER TO EDUCATE COMMUNITIES ACROSS THE UNITED STATES ABOUT SICKLE CELL DISEASE AND THE NEED FOR RESEARCH, EARLY DETECTION METHODS, EFFECTIVE TREATMENTS, AND PREVENTATIVE CARE PROGRAMS WITH RESPECT TO SICKLE CELL DISEASE, COMPLICATIONS FROM SICKLE CELL DISEASE, AND CONDITIONS RELATED TO SICKLE CELL DISEASE

Mr. SCOTT (for himself, Mr. BOOKER, Mr. RUBIO, Mr. BROWN, Mr. ISAKSON, Ms. WARREN, and Mr. COONS) submitted the following resolution; which was considered and agreed to:

S. RES. 661

Whereas sickle cell disease (referred to in this preamble as ''SCD'') is an inherited blood disorder that is a major health problem in the United States and worldwide;

Whereas SCD causes the rapid destruction of sickle cells, which results in multiple medical complications, including anemia, jaundice, gallstones, strokes, restricted blood flow, damaged tissue in the liver, spleen, and kidneys, and death;

Whereas SCD causes episodes of considerable pain in the arms, legs, chest, and abdomen of an individual;

Whereas SCD affects an estimated 100,000 individuals in the United States;

Whereas approximately 1,000 babies are born with SCD each year in the United

States, with the disease occurring in approximately 1 in 365 newborn African-American infants and 1 in 16,300 newborn Hispanic-American infants, and is found in individuals of Mediterranean, Middle Eastern, Asian, and Indian origin;

Whereas more than 3,000,000 individuals in the United States have the sickle cell trait and 1 in 13 African-Americans carries the trait;

Whereas there is a 1 in 4 chance that a child born to parents who both have the sickle cell trait will have the disease;

Whereas the life expectancy of an individual with SCD is often severely limited;

Whereas, while hematopoietic stem cell transplantation (commonly known as ''HSCT'') is currently the only cure for SCD and advances in treating the associated complications of SCD have occurred, more research is needed to find widely available treatments and cures to help patients with SCD; and

Whereas September 2018 has been designated as Sickle Cell Disease Awareness Month in order to educate communities across the United States about SCD, including early detection methods, effective treatments, and preventative care programs with respect to SCD, complications from SCD, and conditions related to SCD: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Sickle Cell Disease Awareness Month; and

(2) encourages the people of the United States to hold appropriate programs, events, and activities during Sickle Cell Disease Awareness Month to raise public awareness of preventative care programs, treatments, and other patient services for those suffering from sickle cell disease, complications from sickle cell disease, and conditions related to sickle cell disease.

SENATE RESOLUTION 662—DESIGNATING SEPTEMBER 2018 AS ''CAMPUS FIRE SAFETY MONTH''

Ms. COLLINS (for herself and Mr. CARPER) submitted the following resolution; which was considered and agreed to:

S. RES. 662

Whereas campus-related housing fires at colleges in Illinois, Indiana, Maryland, Pennsylvania, South Dakota, Texas, Washington, D.C., and other States have tragically cut short the lives of several young people;

Whereas, since January 2000, at least 175 people, including students, parents, and children, have died in campus-related fires;

Whereas approximately 87 percent of those deaths occurred in off-campus residences;

Whereas a majority of college students in the United States live in an off-campus residence;

Whereas many fatal fires have occurred in a building in which the occupants had compromised or disabled the fire safety systems;

Whereas automatic fire alarm systems and smoke alarms provide the early warning of a fire that is necessary for occupants of a building and the fire department to take appropriate action;

Whereas automatic fire sprinkler systems are a highly effective method of controlling or extinguishing a fire in its early stages, thus protecting the lives of the building occupants;

Whereas many college students live in an off-campus residence, fraternity or sorority housing, or a residence hall that is not adequately protected by an automatic fire sprinkler system and an automatic fire alarm system or adequate smoke alarm;

Whereas fire safety education is an effective method of reducing the occurrence of fires and the resulting loss of life and property damage;

Whereas college students do not routinely receive effective fire safety education while in college;

Whereas educating young people in the United States about the importance of fire safety is vital to help ensure that young people engage in fire-safe behavior during college and after college; and

Whereas developing a generation of adults who practice fire safety may significantly reduce future loss of life from fires: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2018 as ''Campus Fire Safety Month''; and

(2) encourages administrators of institutions of higher education and municipalities across the United States—

(A) to provide educational programs about fire safety to all college students in September and throughout the school year;

(B) to evaluate the level of fire safety being provided in both on-campus and off-campus student housing; and

(C) to ensure fire-safe living environments through fire safety education, installation of fire suppression and detection systems and smoke alarms, and the development and enforcement of applicable codes relating to fire safety.

SENATE CONCURRENT RESOLUTION 49—PROVIDING FOR A CORRECTION IN THE ENROLLMENT OF S. 2553

Ms. STABENOW submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49

Amend the title so as to read: ''A bill to amend title XVIII of the Social Security Act to prohibit Medicare part D plans from restricting pharmacies from informing individuals regarding the prices for certain drugs and biologicals.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4026. Mr. MCCONNELL proposed an amendment to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State.

SA 4027. Mr. MCCONNELL proposed an amendment to amendment SA 4026 proposed by Mr. MCCONNELL to the bill H.R. 302, supra.

SA 4028. Mr. MCCONNELL proposed an amendment to the bill H.R. 302, supra.

SA 4029. Mr. MCCONNELL proposed an amendment to amendment SA 4028 proposed by Mr. MCCONNELL to the bill H.R. 302, supra.

SA 4030. Mr. MCCONNELL proposed an amendment to amendment SA 4029 proposed by Mr. MCCONNELL to the amendment SA 4028 proposed by Mr. MCCONNELL to the bill H.R. 302, supra.

TEXT OF AMENDMENTS

SA 4026. Mr. MCCONNELL proposed an amendment to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; as follows:

At the end add the following.

''This Act shall take effect 1 day after the date of enactment.''

SA 4027. Mr. MCCONNELL proposed an amendment to amendment SA 4026 proposed by Mr. MCCONNELL to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; as follows:

Strike ''1 day'' and insert ''2 days''

SA 4028. Mr. MCCONNELL proposed an amendment to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; as follows:

At the end add the following.

''This Act shall take effect 3 days after the date of enactment.''

SA 4029. Mr. MCCONNELL proposed an amendment to amendment SA 4028 proposed by Mr. MCCONNELL to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; as follows:

Strike ''3 days'' and insert ''4 days''

SA 4030. Mr. MCCONNELL proposed an amendment to amendment SA 4029 proposed by Mr. MCCONNELL to the amendment SA 4028 proposed by Mr. MCCONNELL to the bill H.R. 302, to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State; as follows:

Strike ''4'' and insert ''5''

MEASURE READ THE FIRST TIME—S. 3532

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 3532) to authorize the United States Postal Service to provide certain nonpostal property, products, and services on behalf of State, local, and tribal governments.

Mr. MCCONNELL. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be read for the second time on the next legislative day.

TO EXTEND THE AUTHORIZATIONS OF FEDERAL AVIATION PROGRAMS, TO EXTEND THE FUNDING AND EXPENDITURE AUTHORITY OF THE AIRPORT AND AIRWAY TRUST FUND

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6897, which was received from the House.

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

The senior assistant legislative clerk read as follows:

A bill (H.R. 6897) to extend the authorization of Federal aviation programs, to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

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

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

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

The bill (H.R. 6897) was ordered to a third reading, was read the third time, and passed.

PRACTICAL REFORMS AND OTHER GOALS TO REINFORCE THE EFFECTIVENESS OF SELF-GOVERNANCE AND SELF-DETERMINATION FOR INDIAN TRIBES ACT OF 2018

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 567, S. 2515.

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

The senior assistant legislative clerk read as follows:

A bill (S. 2515) to amend the Indian Self-Determination and Education Assistance Act to provide further self-governance by Indian Tribes, and for other purposes.

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

Mr. MCCONNELL. I ask unanimous consent that the bill be considered read the third time.

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

Mr. MCCONNELL. I know of no further debate on the bill.

The ACTING PRESIDENT pro tempore. Is there further debate?

Hearing none, the question is, Shall the bill pass?

The bill (S. 2515) was passed, as follows:

S. 2515

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Practical Reforms and Other Goals To Reinforce the Effectiveness of Self-Governance and Self-Determination for Indian Tribes Act of 2018'' or the ''PROGRESS for Indian Tribes Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—TRIBAL SELF-GOVERNANCE

SEC. 101. TRIBAL SELF-GOVERNANCE.

(a) EFFECT OF PROVISIONS.—Nothing in this Act, or the amendments made by this Act, shall be construed—

(1) to modify, limit, expand, or otherwise affect—

(A) the authority of the Secretary of the Interior, as provided for under the Indian Self-Determination and Education Assistance Act (as in effect on the day before the date of enactment of this Act), regarding—

(i) the inclusion of any non-BIA program (as defined in section 401 of the Indian Self-Determination and Education Assistance Act) in a self-determination contract or funding agreement under section 403(c) of such Act (as so in effect); or

(ii) the implementation of any contract or agreement described in clause (i) that is in effect on the day described in subparagraph (A);

(B) the meaning, application, or effect of any Tribal water rights settlement, including the performance required of a party thereto or any payment or funding obligation thereunder;

(C) the authority, jurisdiction, or responsibility of a State to manage, control, or regulate fish and wildlife under State law (including regulations) on land or water in the State, including Federal public land;

(D) except for the authority provided to the Secretary as described in subparagraph (A), the applicability or effect of any Federal law related to the protection or management of fish or wildlife; or

(E) any treaty-reserved right or other right of any Indian Tribe as recognized by any other means, including treaties or agreements with the United States, Executive orders, statutes, regulations, or case law; or

(2) to authorize any provision of a contract or agreement that is not consistent with the terms of a Tribal water rights settlement.

(b) DEFINITIONS.—Section 401 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5361) is amended to read as follows:

''SEC. 401. DEFINITIONS.

''In this title:

''(1) COMPACT.—The term 'compact' means a self-governance compact entered into under section 404.

''(2) CONSTRUCTION PROGRAM; CONSTRUCTION PROJECT.—The term 'construction program' or 'construction project' means a Tribal undertaking relating to the administration, planning, environmental determination, design, construction, repair, improvement, or expansion of roads, bridges, buildings, structures, systems, or other facilities for purposes of housing, law enforcement, detention, sanitation, water supply, education, administration, community, health, irrigation, agriculture, conservation, flood control, transportation, or port facilities, or for other Tribal purposes.

''(3) DEPARTMENT.—The term 'Department' means the Department of the Interior.

''(4) FUNDING AGREEMENT.—The term 'funding agreement' means a funding agreement entered into under section 403.

''(5) GROSS MISMANAGEMENT.—The term 'gross mismanagement' means a significant violation, shown by a preponderance of the evidence, of a compact, funding agreement, or statutory or regulatory requirement applicable to Federal funds for a program administered by an Indian Tribe under a compact or funding agreement.

''(6) INHERENT FEDERAL FUNCTION.—The term 'inherent Federal function' means a Federal function that may not legally be delegated to an Indian Tribe.

''(7) NON-BIA PROGRAM.—The term 'non-BIA program' means all or a portion of a program, function, service, or activity that is administered by any bureau, service, office, or agency of the Department of the Interior other than—

''(A) the Bureau of Indian Affairs;

''(B) the Office of the Assistant Secretary for Indian Affairs; or

''(C) the Office of the Special Trustee for American Indians.

''(8) PROGRAM.—The term 'program' means any program, function, service, or activity (or portion thereof) within the Department that is included in a funding agreement.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(10) SELF-DETERMINATION CONTRACT.—The term 'self-determination contract' means a self-determination contract entered into under section 102.

''(11) SELF-GOVERNANCE.—The term 'self-governance' means the Tribal Self-Governance Program established under section 402.

''(12) TRIBAL SHARE.—The term 'Tribal share' means the portion of all funds and resources of an Indian Tribe that—

''(A) support any program within the Bureau of Indian Affairs, the Office of the Special Trustee for American Indians, or the Office of the Assistant Secretary for Indian Affairs; and

''(B) are not required by the Secretary for the performance of an inherent Federal function.

''(13) TRIBAL WATER RIGHTS SETTLEMENT.—The term 'Tribal water rights settlement' means any settlement, compact, or other agreement expressly ratified or approved by an Act of Congress that—

''(A) includes an Indian Tribe and the United States as parties; and

''(B) quantifies or otherwise defines any water right of the Indian Tribe.''.

(c) ESTABLISHMENT.—Section 402 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb) is amended to read as follows:

''SEC. 402. TRIBAL SELF-GOVERNANCE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program within the Department to be known as the 'Tribal Self-Governance Program'.

''(b) SELECTION OF PARTICIPATING INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) ELIGIBILITY.—The Secretary, acting through the Director of the Office of Self-Governance, may select not more than 50 new Indian Tribes per year from those tribes eligible under subsection (c) to participate in self-governance.

''(B) JOINT PARTICIPATION.—On the request of each participating Indian Tribe, two or more otherwise eligible Indian Tribes may be treated as a single Indian Tribe for the purpose of participating in self-governance.

''(2) OTHER AUTHORIZED INDIAN TRIBE OR TRIBAL ORGANIZATION.—If an Indian Tribe authorizes another Indian Tribe or a Tribal organization to plan for or carry out a program on its behalf under this title, the authorized Indian Tribe or Tribal organization shall have the rights and responsibilities of the authorizing Indian Tribe (except as otherwise provided in the authorizing resolution).

''(3) JOINT PARTICIPATION AS ORGANIZATION.—Two or more Indian Tribes that are not otherwise eligible under subsection (c) may be treated as a single Indian Tribe for the purpose of participating in self-governance as a Tribal organization if—

''(A) each Indian Tribe so requests; and

''(B) the Tribal organization itself, or at least one of the Indian Tribes participating

in the Tribal organization, is eligible under subsection (c).

''(4) TRIBAL WITHDRAWAL FROM A TRIBAL ORGANIZATION.—

''(A) IN GENERAL.—An Indian Tribe that withdraws from participation in a Tribal organization, in whole or in part, shall be entitled to participate in self-governance if the Indian Tribe is eligible under subsection (c).

''(B) EFFECT OF WITHDRAWAL.—If an Indian Tribe withdraws from participation in a Tribal organization, the Indian Tribe shall be entitled to its Tribal share of funds and resources supporting the programs that the Indian Tribe is entitled to carry out under the compact and funding agreement of the Indian Tribe.

''(C) PARTICIPATION IN SELF-GOVERNANCE.—The withdrawal of an Indian Tribe from a Tribal organization shall not affect the eligibility of the Tribal organization to participate in self-governance on behalf of one or more other Indian Tribes, if the Tribal organization still qualifies under subsection (c).

''(D) WITHDRAWAL PROCESS.—

''(i) IN GENERAL.—An Indian Tribe may, by Tribal resolution, fully or partially withdraw its Tribal share of any program in a funding agreement from a participating Tribal organization.

''(ii) NOTIFICATION.—The Indian Tribe shall provide a copy of the Tribal resolution described in clause (i) to the Secretary.

''(iii) EFFECTIVE DATE.—

''(I) IN GENERAL.—A withdrawal under clause (i) shall become effective on the date that is specified in the Tribal resolution and mutually agreed upon by the Secretary, the withdrawing Indian Tribe, and the Tribal organization that signed the compact and funding agreement on behalf of the withdrawing Indian Tribe or Tribal organization.

''(II) NO SPECIFIED DATE.—In the absence of a date specified in the resolution, the withdrawal shall become effective on—

''(aa) the earlier of—

''(AA) 1 year after the date of submission of the request; and

''(BB) the date on which the funding agreement expires; or

''(bb) such date as may be mutually agreed upon by the Secretary, the withdrawing Indian Tribe, and the Tribal organization that signed the compact and funding agreement on behalf of the withdrawing Indian Tribe or Tribal organization.

''(E) DISTRIBUTION OF FUNDS.—If an Indian Tribe or Tribal organization eligible to enter into a self-determination contract or a compact or funding agreement fully or partially withdraws from a participating Tribal organization, the withdrawing Indian Tribe—

''(i) may elect to enter into a self-determination contract or compact, in which case—

''(I) the withdrawing Indian Tribe or Tribal organization shall be entitled to its Tribal share of unexpended funds and resources supporting the programs that the Indian Tribe will be carrying out under its own self-determination contract or compact and funding agreement (calculated on the same basis as the funds were initially allocated to the funding agreement of the Tribal organization); and

''(II) the funds referred to in subclause (I) shall be withdrawn by the Secretary from the funding agreement of the Tribal organization and transferred to the withdrawing Indian Tribe, on the condition that sections 102 and 105(i), as appropriate, shall apply to the withdrawing Indian Tribe; or

''(ii) may elect not to enter into a self-determination contract or compact, in which case all unexpended funds and resources associated with the withdrawing Indian Tribe's returned programs (calculated on the same basis as the funds were initially allocated to the funding agreement of the Tribal organization) shall be returned by the Tribal organization to the Secretary for operation of the programs included in the withdrawal.

''(F) RETURN TO MATURE CONTRACT STATUS.—If an Indian Tribe elects to operate all or some programs carried out under a compact or funding agreement under this title through a self-determination contract under title I, at the option of the Indian Tribe, the resulting self-determination contract shall be a mature self-determination contract as long as the Indian Tribe meets the requirements set forth in section 4(h).

''(c) ELIGIBILITY.—To be eligible to participate in self-governance, an Indian Tribe shall—

''(1) successfully complete the planning phase described in subsection (d);

''(2) request participation in self-governance by resolution or other official action by the Tribal governing body; and

''(3) demonstrate, for the 3 fiscal years preceding the date on which the Indian Tribe requests participation, financial stability and financial management capability as evidenced by the Indian Tribe having no uncorrected significant and material audit exceptions in the required annual audit of its self-determination or self-governance agreements with any Federal agency.

''(d) PLANNING PHASE.—

''(1) IN GENERAL.—An Indian Tribe seeking to begin participation in self-governance shall complete a planning phase as provided in this subsection.

''(2) ACTIVITIES.—The planning phase shall—

''(A) be conducted to the satisfaction of the Indian Tribe; and

''(B) include—

''(i) legal and budgetary research; and

''(ii) internal Tribal government planning, training, and organizational preparation.

''(e) GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriations, an Indian Tribe or Tribal organization that meets the requirements of paragraphs (2) and (3) of subsection (c) shall be eligible for grants—

''(A) to plan for participation in self-governance; and

''(B) to negotiate the terms of participation by the Indian Tribe or Tribal organization in self-governance, as set forth in a compact and a funding agreement.

''(2) RECEIPT OF GRANT NOT REQUIRED.—Receipt of a grant under paragraph (1) shall not be a requirement of participation in self-governance.''.

(d) FUNDING AGREEMENTS.—Section 403 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5363) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) AUTHORIZATION.—The Secretary shall, on the request of any Indian Tribe or Tribal organization, negotiate and enter into a written funding agreement with the governing body of the Indian Tribe or the Tribal organization in a manner consistent with—

''(1) the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian Tribes and the United States; and

''(2) subsection (b).'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''without regard to the agency or office of the Bureau of Indian Affairs'' and inserting ''the Office of the Assistant Secretary for Indian Affairs, and the Office of the Special Trustee for American Indians, without regard to the agency or office of that Bureau or those Offices'';

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the margins of such clauses accordingly;

(iii) by striking ''including any program'' and inserting the following: ''including—

''(A) any program'';

(iv) in subparagraph (A)—

(I) in clause (i), as redesignated by clause (ii), by striking the semicolon at the end and inserting ''; and''; and

(II) in clause (ii), as so redesignated, by striking ''and'' after the semicolon;

(v) by redesignating subparagraph (C) as subparagraph (B);

(vi) in subparagraph (B), as redesignated by clause (v), by striking the semicolon and inserting ''; and''; and

(vii) by adding at the end the following:

''(C) any other program, service, function, or activity (or portion thereof) that is provided through the Bureau of Indian Affairs, the Office of the Assistant Secretary for Indian Affairs, or the Office of the Special Trustee for American Indians with respect to which Indian Tribes or Indians are primary or significant beneficiaries;'';

(B) in paragraph (2)—

(i) by striking ''section 405(c)'' and inserting ''section 412(c)''; and

(ii) by inserting ''and'' after the semicolon at the end;

(C) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (4) through (9);

(3) in subsection (f)—

(A) in the subsection heading, by striking ''FOR REVIEW'';

(B) by striking ''such agreement to—'' and all that follows through ''Indian tribe'' and inserting ''such agreement to each Indian Tribe'';

(C) by striking ''agreement;'' and inserting ''agreement.''; and

(D) by striking paragraphs (2) and (3); and

(4) by adding at the end the following:

''(m) OTHER PROVISIONS.—

''(1) EXCLUDED FUNDING.—A funding agreement shall not authorize an Indian Tribe to plan, conduct, administer, or receive Tribal share funding under any program that—

''(A) is provided under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.); or

''(B) is provided for elementary and secondary schools under the formula developed under section 1127 of the Education Amendments of 1978 (25 U.S.C. 2007).

''(2) SERVICES, FUNCTIONS, AND RESPONSIBILITIES.—A funding agreement shall specify—

''(A) the services to be provided under the funding agreement;

''(B) the functions to be performed under the funding agreement; and

''(C) the responsibilities of the Indian Tribe and the Secretary under the funding agreement.

''(3) BASE BUDGET.—

''(A) IN GENERAL.—A funding agreement shall, at the option of the Indian Tribe, provide for a stable base budget specifying the recurring funds (which may include funds available under section 106(a)) to be transferred to the Indian Tribe, for such period as the Indian Tribe specifies in the funding agreement, subject to annual adjustment only to reflect changes in congressional appropriations.

''(B) LIMITATIONS.—Notwithstanding subparagraph (A), a funding agreement shall not specify funding associated with a program described in subsection (b)(2) or (c) unless the Secretary agrees.

''(4) NO WAIVER OF TRUST RESPONSIBILITY.—A funding agreement shall prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian

Tribes and individual Indians that exists under treaties, Executive orders, court decisions, and other laws.

''(n) AMENDMENT.—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian Tribe, unless such terms are required by Federal law.

''(o) EFFECTIVE DATE.—A funding agreement shall become effective on the date specified in the funding agreement.

''(p) EXISTING AND SUBSEQUENT FUNDING AGREEMENTS.—

''(1) SUBSEQUENT FUNDING AGREEMENTS.—Absent notification from an Indian Tribe that the Indian Tribe is withdrawing or retroceding the operation of one or more programs identified in a funding agreement, or unless otherwise agreed to by the parties to the funding agreement or by the nature of any noncontinuing program, service, function, or activity contained in a funding agreement—

''(A) a funding agreement shall remain in full force and effect until a subsequent funding agreement is executed, with funding paid annually for each fiscal year the agreement is in effect; and

''(B) the term of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement for the purposes of calculating the amount of funding to which the Indian Tribe is entitled.

''(2) DISPUTES.—Disputes over the implementation of paragraph (1)(A) shall be subject to section 406(c).

''(3) EXISTING FUNDING AGREEMENTS.—An Indian Tribe that was participating in self-governance under this title on the date of enactment of the PROGRESS for Indian Tribes Act shall have the option at any time after that date—

''(A) to retain its existing funding agreement (in whole or in part) to the extent that the provisions of that funding agreement are not directly contrary to any express provision of this title; or

''(B) to negotiate a new funding agreement in a manner consistent with this title.

''(4) MULTIYEAR FUNDING AGREEMENTS.—An Indian Tribe may, at the discretion of the Indian Tribe, negotiate with the Secretary for a funding agreement with a term that exceeds 1 year.''.

(e) GENERAL REVISIONS.—Title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304 et seq.) is amended by striking sections 404 through 408 and inserting the following:

''SEC. 404. COMPACTS.

''(a) IN GENERAL.—The Secretary shall negotiate and enter into a written compact with each Indian Tribe participating in self-governance in a manner consistent with the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian Tribes and the United States.

''(b) CONTENTS.—A compact under subsection (a) shall—

''(1) specify and affirm the general terms of the government-to-government relationship between the Indian Tribe and the Secretary; and

''(2) include such terms as the parties intend shall control during the term of the compact.

''(c) AMENDMENT.—A compact under subsection (a) may be amended only by agreement of the parties.

''(d) EFFECTIVE DATE.—The effective date of a compact under subsection (a) shall be—

''(1) the date of the execution of the compact by the parties; or

''(2) such date as is mutually agreed upon by the parties.

''(e) DURATION.—A compact under subsection (a) shall remain in effect—

''(1) for so long as permitted by Federal law; or

''(2) until termination by written agreement, retrocession, or reassumption.

''(f) EXISTING COMPACTS.—An Indian Tribe participating in self-governance under this title, as in effect on the date of enactment of the PROGRESS for Indian Tribes Act, shall have the option at any time after that date—

''(1) to retain its negotiated compact (in whole or in part) to the extent that the provisions of the compact are not directly contrary to any express provision of this title; or

''(2) to negotiate a new compact in a manner consistent with this title.

''SEC. 405. GENERAL PROVISIONS.

''(a) APPLICABILITY.—An Indian Tribe and the Secretary shall include in any compact or funding agreement provisions that reflect the requirements of this title.

''(b) CONFLICTS OF INTEREST.—An Indian Tribe participating in self-governance shall ensure that internal measures are in place to address, pursuant to Tribal law and procedures, conflicts of interest in the administration of programs.

''(c) AUDITS.—

''(1) SINGLE AGENCY AUDIT ACT.—Chapter 75 of title 31, United States Code, shall apply to a funding agreement under this title.

''(2) COST PRINCIPLES.—An Indian Tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by—

''(A) any provision of law, including section 106; or

''(B) any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget.

''(3) FEDERAL CLAIMS.—Any claim by the Federal Government against an Indian Tribe relating to funds received under a funding agreement based on any audit under this subsection shall be subject to section 106(f).

''(d) REDESIGN AND CONSOLIDATION.—Except as provided in section 407, an Indian Tribe may redesign or consolidate programs, or reallocate funds for programs, in a compact or funding agreement in any manner that the Indian Tribe determines to be in the best interest of the Indian community being served—

''(1) so long as the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law; and

''(2) except that, with respect to the reallocation, consolidation, and redesign of programs described in subsection (b)(2) or (c) of section 403, a joint agreement between the Secretary and the Indian Tribe shall be required.

''(e) RETROCESSION.—

''(1) IN GENERAL.—An Indian Tribe may fully or partially retrocede to the Secretary any program under a compact or funding agreement.

''(2) EFFECTIVE DATE.—

''(A) AGREEMENT.—Unless an Indian Tribe rescinds a request for retrocession under paragraph (1), the retrocession shall become effective on the date specified by the parties in the compact or funding agreement.

''(B) NO AGREEMENT.—In the absence of a specification of an effective date in the compact or funding agreement, the retrocession shall become effective on—

''(i) the earlier of—

''(I) 1 year after the date on which the request is submitted; and

''(II) the date on which the funding agreement expires; or

''(ii) such date as may be mutually agreed upon by the Secretary and the Indian Tribe.

''(f) NONDUPLICATION.—A funding agreement shall provide that, for the period for which, and to the extent to which, funding is provided to an Indian Tribe under this title, the Indian Tribe—

''(1) shall not be entitled to contract with the Secretary for funds under section 102, except that the Indian Tribe shall be eligible for new programs on the same basis as other Indian Tribes; and

''(2) shall be responsible for the administration of programs in accordance with the compact or funding agreement.

''(g) RECORDS.—

''(1) IN GENERAL.—Unless an Indian Tribe specifies otherwise in the compact or funding agreement, records of an Indian Tribe shall not be considered to be Federal records for purposes of chapter 5 of title 5, United States Code.

''(2) RECORDKEEPING SYSTEM.—An Indian Tribe shall—

''(A) maintain a recordkeeping system; and

''(B) on a notice period of not less than 30 days, provide the Secretary with reasonable access to the records to enable the Department to meet the requirements of sections 3101 through 3106 of title 44, United States Code.

''SEC. 406. PROVISIONS RELATING TO THE SECRETARY.

''(a) TRUST EVALUATIONS.—A funding agreement shall include a provision to monitor the performance of trust functions by the Indian Tribe through the annual trust evaluation.

''(b) REASSUMPTION.—

''(1) IN GENERAL.—A compact or funding agreement shall include provisions for the Secretary to reassume a program and associated funding if there is a specific finding relating to that program of—

''(A) imminent jeopardy to a trust asset, a natural resource, or public health and safety that—

''(i) is caused by an act or omission of the Indian Tribe; and

''(ii) arises out of a failure to carry out the compact or funding agreement; or

''(B) gross mismanagement with respect to funds transferred to an Indian Tribe under a compact or funding agreement, as determined by the Secretary in consultation with the Inspector General, as appropriate.

''(2) PROHIBITION.—The Secretary shall not reassume operation of a program, in whole or part, unless—

''(A) the Secretary first provides written notice and a hearing on the record to the Indian Tribe; and

''(B) the Indian Tribe does not take corrective action to remedy the mismanagement of the funds or programs, or the imminent jeopardy to a trust asset, natural resource, or public health and safety.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), the Secretary may, on written notice to the Indian Tribe, immediately reassume operation of a program if—

''(i) the Secretary makes a finding of imminent and substantial jeopardy and irreparable harm to a trust asset, a natural resource, or the public health and safety caused by an act or omission of the Indian Tribe; and

''(ii) the imminent and substantial jeopardy and irreparable harm to the trust asset, natural resource, or public health and safety arises out of a failure by the Indian Tribe to carry out the terms of an applicable compact or funding agreement.

''(B) REASSUMPTION.—If the Secretary reassumes operation of a program under subparagraph (A), the Secretary shall provide the Indian Tribe with a hearing on the record not later than 10 days after the date of reassumption.

''(c) INABILITY TO AGREE ON COMPACT OR FUNDING AGREEMENT.—

''(1) FINAL OFFER.—If the Secretary and a participating Indian Tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian Tribe may submit a final offer to the Secretary.

''(2) DETERMINATION.—Not more than 60 days after the date of receipt of a final offer by one or more of the officials designated pursuant to paragraph (4), the Secretary shall review and make a determination with respect to the final offer, except that the 60-day period may be extended for up to 30 days for circumstances beyond the control of the Secretary, upon written request by the Secretary to the Indian tribe.

''(3) EXTENSIONS.—The deadline described in paragraph (2) may be extended for any length of time, as agreed upon by both the Indian Tribe and the Secretary.

''(4) DESIGNATED OFFICIALS.—

''(A) IN GENERAL.—The Secretary shall designate one or more appropriate officials in the Department to receive a copy of the final offer described in paragraph (1).

''(B) NO DESIGNATION.—If no official is designated, the Director of the Office of the Executive Secretariat and Regulatory Affairs shall be the designated official.

''(5) NO TIMELY DETERMINATION.—If the Secretary fails to make a determination with respect to a final offer within the period specified in paragraph (2), including any extension agreed to under paragraph (3), the Secretary shall be deemed to have agreed to the offer, except that with respect to any compact or funding agreement provision concerning a program described under section 403(c), the Secretary shall be deemed to have rejected the offer with respect to such provision and the terms of clauses (ii) through (iv) of paragraphs (6)(A) shall apply.

''(6) REJECTION OF FINAL OFFER.—

''(A) IN GENERAL.—If the Secretary rejects a final offer (or one or more provisions or funding levels in a final offer), the Secretary shall—

''(i) provide timely written notification to the Indian Tribe that contains a specific finding that clearly demonstrates, or that is supported by a controlling legal authority, that—

''(I) the amount of funds proposed in the final offer exceeds the applicable funding level as determined under section 106(a)(1);

''(II) the program that is the subject of the final offer is an inherent Federal function or is subject to the discretion of the Secretary under section 403(c);

''(III) the Indian Tribe cannot carry out the program in a manner that would not result in significant danger or risk to the public health or safety, to natural resources, or to trust resources;

''(IV) the Indian Tribe is not eligible to participate in self-governance under section 402(c);

''(V) the funding agreement would violate a Federal statute or regulation; or

''(VI) with respect to a program or portion of a program included in a final offer pursuant to section 403(b)(2), the program or the portion of the program is not otherwise available to Indian Tribes or Indians under section 102(a)(1)(E);

''(ii) provide technical assistance to overcome the objections stated in the notification required by clause (i);

''(iii) provide the Indian Tribe with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter, and the opportunity for appeal on the objections raised, except that the Indian Tribe may, in lieu of filing such appeal, directly proceed to initiate an action in a United States district court under section 110(a); and

''(iv) provide the Indian Tribe the option of entering into the severable portions of a final proposed compact or funding agreement (including a lesser funding amount, if any), that the Secretary did not reject, subject to any additional alterations necessary to conform the compact or funding agreement to the severed provisions.

''(B) EFFECT OF EXERCISING CERTAIN OPTION.—If an Indian Tribe exercises the option specified in subparagraph (A)(iv)—

''(i) the Indian Tribe shall retain the right to appeal the rejection by the Secretary under this section; and

''(ii) clauses (i), (ii), and (iii) of subparagraph (A) shall apply only to the portion of the proposed final compact or funding agreement that was rejected by the Secretary.

''(d) BURDEN OF PROOF.—In any administrative action, hearing, appeal, or civil action brought under this section, the Secretary shall have the burden of proof—

''(1) of demonstrating, by a preponderance of the evidence, the validity of the grounds for a reassumption under subsection (b); and

''(2) of clearly demonstrating the validity of the grounds for rejecting a final offer made under subsection (c).

''(e) GOOD FAITH.—

''(1) IN GENERAL.—In the negotiation of compacts and funding agreements, the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy.

''(2) POLICY.—The Secretary shall carry out this title in a manner that maximizes the policy of Tribal self-governance.

''(f) SAVINGS.—

''(1) IN GENERAL.—To the extent that programs carried out for the benefit of Indian Tribes and Tribal organizations under this title reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of Tribal shares and other funds determined under section 408(c), except for funding agreements entered into for programs under section 403(c), the Secretary shall make such savings available to the Indian Tribes or Tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs.

''(2) DISCRETIONARY PROGRAMS OF SPECIAL SIGNIFICANCE.—For any savings generated as a result of the assumption of a program by an Indian Tribe under section 403(c), such savings shall be made available to that Indian Tribe.

''(g) TRUST RESPONSIBILITY.—The Secretary may not waive, modify, or diminish in any way the trust responsibility of the United States with respect to Indian Tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

''(h) DECISION MAKER.—A decision that constitutes final agency action and relates to an appeal within the Department conducted under subsection (c)(6)(A)(iii) may be made by—

''(1) an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

''(2) an administrative law judge.

''(i) RULES OF CONSTRUCTION.—Subject to section 101(a) of the PROGRESS for Indian Tribes Act, each provision of this title and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in self-governance, and any ambiguity shall be resolved in favor of the Indian Tribe.

''SEC. 407. CONSTRUCTION PROGRAMS AND PROJECTS.

''(a) IN GENERAL.—Indian Tribes participating in Tribal self-governance may carry out any construction project included in a compact or funding agreement under this title.

''(b) TRIBAL OPTION TO CARRY OUT CERTAIN FEDERAL ENVIRONMENTAL ACTIVITIES.—In carrying out a construction project under this title, an Indian Tribe may, subject to the agreement of the Secretary, elect to assume some Federal responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), division A of subtitle III of title 54, United States Code, and related provisions of other law and regulations that would apply if the Secretary were to undertake a construction project, by adopting a resolution—

''(1) designating a certifying Tribal officer to represent the Indian Tribe and to assume the status of a responsible Federal official under those Acts, laws, or regulations; and

''(2) accepting the jurisdiction of the United States courts for the purpose of enforcing the responsibilities of the certifying Tribal officer assuming the status of a responsible Federal official under those Acts, laws, or regulations.

''(c) SAVINGS CLAUSE.—Notwithstanding subsection (b), nothing in this section authorizes the Secretary to include in any compact or funding agreement duties of the Secretary under the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), and other related provisions of law that are inherent Federal functions.

''(d) CODES AND STANDARDS.—In carrying out a construction project under this title, an Indian Tribe shall—

''(1) adhere to applicable Federal, State, local, and Tribal building codes, architectural and engineering standards, and applicable Federal guidelines regarding design, space, and operational standards, appropriate for the particular project; and

''(2) use only architects and engineers who—

''(A) are licensed to practice in the State in which the facility will be built; and

''(B) certify that—

''(i) they are qualified to perform the work required by the specific construction involved; and

''(ii) upon completion of design, the plans and specifications meet or exceed the applicable construction and safety codes.

''(e) TRIBAL ACCOUNTABILITY.—

''(1) IN GENERAL.—In carrying out a construction project under this title, an Indian Tribe shall assume responsibility for the successful completion of the construction project and of a facility that is usable for the purpose for which the Indian Tribe received funding.

''(2) REQUIREMENTS.—For each construction project carried out by an Indian Tribe under this title, the Indian Tribe and the Secretary shall negotiate a provision to be included in the funding agreement that identifies—

''(A) the approximate start and completion dates for the project, which may extend over a period of one or more years;

''(B) a general description of the project, including the scope of work, references to design criteria, and other terms and conditions;

''(C) the responsibilities of the Indian Tribe and the Secretary for the project;

''(D) how project-related environmental considerations will be addressed;

''(E) the amount of funds provided for the project;

''(F) the obligations of the Indian Tribe to comply with the codes referenced in subsection (d)(1) and applicable Federal laws and regulations;

''(G) the agreement of the parties over who will bear any additional costs necessary to meet changes in scope, or errors or omissions in design and construction; and

''(H) the agreement of the Secretary to issue a certificate of occupancy, if requested by the Indian Tribe, based upon the review and verification by the Secretary, to the satisfaction of the Secretary, that the Indian Tribe has secured upon completion the review and approval of the plans and specifications, sufficiency of design, life safety, and code compliance by qualified, licensed, and independent architects and engineers.

''(f) FUNDING.—

''(1) IN GENERAL.—Funding appropriated for construction projects carried out under this title shall be included in funding agreements as annual or semiannual advance payments at the option of the Indian Tribe.

''(2) ADVANCE PAYMENTS.—The Secretary shall include all associated project contingency funds with each advance payment, and the Indian Tribe shall be responsible for the management of such contingency funds.

''(g) NEGOTIATIONS.—At the option of the Indian Tribe, construction project funding proposals shall be negotiated pursuant to the statutory process in section 105, and any resulting construction project agreement shall be incorporated into the funding agreement as addenda.

''(h) FEDERAL REVIEW AND VERIFICATION.—

''(1) IN GENERAL.—On a schedule negotiated by the Secretary and the Indian Tribe—

''(A) the Secretary shall review and verify, to the satisfaction of the Secretary, that project planning and design documents prepared by the Indian Tribe in advance of initial construction are in conformity with the obligations of the Indian Tribe under subsection (d); and

''(B) before the project planning and design documents are implemented, the Secretary shall review and verify to the satisfaction of the Secretary that subsequent document amendments which result in a significant change in construction are in conformity with the obligations of the Indian Tribe under subsection (d).

''(2) REPORTS.—The Indian Tribe shall provide the Secretary with project progress and financial reports not less than semiannually.

''(3) OVERSIGHT VISITS.—The Secretary may conduct onsite project oversight visits semiannually or on an alternate schedule agreed to by the Secretary and the Indian Tribe.

''(i) APPLICATION OF OTHER LAWS.—Unless otherwise agreed to by the Indian Tribe and except as otherwise provided in this Act, no provision of title 41, United States Code, the Federal Acquisition Regulation, or any other law or regulation pertaining to Federal procurement (including Executive orders) shall apply to any construction program or project carried out under this title.

''(j) FUTURE FUNDING.—Upon completion of a facility constructed under this title, the Secretary shall include the facility among those eligible for annual operation and maintenance funding support comparable to that provided for similar facilities funded by the Department as annual appropriations are available and to the extent that the facility size and complexity and other factors do not exceed the funding formula criteria for comparable buildings.

''SEC. 408. PAYMENT.

''(a) IN GENERAL.—At the request of the governing body of an Indian Tribe and under the terms of an applicable funding agreement, the Secretary shall provide funding to the Indian Tribe to carry out the funding agreement.

''(b) ADVANCE ANNUAL PAYMENT.—At the option of the Indian Tribe, a funding agreement shall provide for an advance annual payment to an Indian Tribe.

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to subsection (e) and sections 403 and 405, the Secretary shall provide funds to the Indian Tribe under a funding agreement for programs in an amount that is equal to the amount that the Indian Tribe would have been entitled to receive under contracts and grants under this Act (including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian Tribe or its members) without regard to the organization level within the Department at which the programs are carried out.

''(2) SAVINGS CLAUSE.—Nothing in this section reduces programs, services, or funds of, or provided to, another Indian Tribe.

''(d) TIMING.—

''(1) IN GENERAL.—Pursuant to the terms of any compact or funding agreement entered into under this title, the Secretary shall transfer to the Indian Tribe all funds provided for in the funding agreement, pursuant to subsection (c), and provide funding for periods covered by joint resolution adopted by Congress making continuing appropriations, to the extent permitted by such resolution.

''(2) TRANSFERS.—Not later than 1 year after the date of enactment of the PROGRESS for Indian Tribes Act, in any instance in which a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.

''(e) AVAILABILITY.—Funds for trust services to individual Indians shall be available under a funding agreement only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the Indian Tribe.

''(f) MULTIYEAR FUNDING.—A funding agreement may provide for multiyear funding.

''(g) LIMITATIONS ON AUTHORITY OF THE SECRETARY.—The Secretary shall not—

''(1) fail to transfer to an Indian Tribe its full share of any central, headquarters, regional, area, or service unit office or other funds due under this title for programs eligible under paragraph (1) or (2) of section 403(b), except as required by Federal law;

''(2) withhold any portion of such funds for transfer over a period of years; or

''(3) reduce the amount of funds required under this title—

''(A) to make funding available for self-governance monitoring or administration by the Secretary;

''(B) in subsequent years, except as necessary as a result of—

''(i) a reduction in appropriations from the previous fiscal year for the program to be included in a compact or funding agreement;

''(ii) a congressional directive in legislation or an accompanying report;

''(iii) a Tribal authorization;

''(iv) a change in the amount of pass-through funds subject to the terms of the funding agreement; or

''(v) completion of an activity under a program for which the funds were provided;

''(C) to pay for Federal functions, including—

''(i) Federal pay costs;

''(ii) Federal employee retirement benefits;

''(iii) automated data processing;

''(iv) technical assistance; and

''(v) monitoring of activities under this title; or

''(D) to pay for costs of Federal personnel displaced by self-determination contracts under this Act or self-governance under this title.

''(h) FEDERAL RESOURCES.—If an Indian Tribe elects to carry out a compact or funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), Federal supply sources (including lodging, airline transportation, and other means of transportation, including the use of interagency motor pool vehicles), or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is eligible to participate), the Secretary shall, as soon as practicable, acquire and transfer such personnel, supplies, or resources to the Indian Tribe under this title.

''(i) PROMPT PAYMENT ACT.—Chapter 39 of title 31, United States Code, shall apply to the transfer of funds due under a compact or funding agreement authorized under this title.

''(j) INTEREST OR OTHER INCOME.—

''(1) IN GENERAL.—An Indian Tribe may retain interest or income earned on any funds paid under a compact or funding agreement to carry out governmental purposes.

''(2) NO EFFECT ON OTHER AMOUNTS.—The retention of interest or income under paragraph (1) shall not diminish the amount of funds an Indian Tribe is entitled to receive under a funding agreement in the year the interest or income is earned or in any subsequent fiscal year.

''(3) INVESTMENT STANDARD.—Funds transferred under this title shall be managed by the Indian Tribe using the prudent investment standard, provided that the Secretary shall not be liable for any investment losses of funds managed by the Indian Tribe that are not otherwise guaranteed or insured by the Federal Government.

''(k) CARRYOVER OF FUNDS.—

''(1) IN GENERAL.—Notwithstanding any provision of an appropriations Act, all funds paid to an Indian Tribe in accordance with a compact or funding agreement shall remain available until expended.

''(2) EFFECT OF CARRYOVER.—If an Indian Tribe elects to carry over funding from one year to the next, the carryover shall not diminish the amount of funds the Indian Tribe is entitled to receive under a funding agreement in that fiscal year or any subsequent fiscal year.

''(l) LIMITATION OF COSTS.—

''(1) IN GENERAL.—An Indian Tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred under a compact or funding agreement.

''(2) NOTICE OF INSUFFICIENCY.—If at any time the Indian Tribe has reason to believe that the total amount provided for a specific activity under a compact or funding agreement is insufficient, the Indian Tribe shall provide reasonable notice of such insufficiency to the Secretary.

''(3) SUSPENSION OF PERFORMANCE.—If, after notice under paragraph (2), the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian Tribe may suspend performance of the activity until such time as additional funds are transferred.

''(4) SAVINGS CLAUSE.—Nothing in this section reduces any programs, services, or funds of, or provided to, another Indian Tribe.

''(m) DISTRIBUTION OF FUNDS.—The Office of Self-Governance shall be responsible for distribution of all Bureau of Indian Affairs

funds provided under this title unless otherwise agreed by the parties to an applicable funding agreement.

''(n) APPLICABILITY.—Notwithstanding any other provision of this section, section 101(a) of the PROGRESS for Indian Tribes Act applies to subsections (a) through (m).

''SEC. 409. FACILITATION.

''(a) IN GENERAL.—Except as otherwise provided by law (including section 101(a) of the PROGRESS for Indian Tribes Act), the Secretary shall interpret each Federal law and regulation in a manner that facilitates—

''(1) the inclusion of programs in funding agreements; and

''(2) the implementation of funding agreements.

''(b) REGULATION WAIVER.—

''(1) REQUEST.—An Indian Tribe may submit to the Secretary a written request for a waiver of applicability of a Federal regulation, including—

''(A) an identification of the specific text in the regulation sought to be waived; and

''(B) the basis for the request.

''(2) DETERMINATION BY THE SECRETARY.—Not later than 120 days after receipt by the Secretary and the designated officials under paragraph (4) of a request under paragraph (1), the Secretary shall approve or deny the requested waiver in writing to the Indian Tribe.

''(3) EXTENSIONS.—The deadline described in paragraph (2) may be extended for any length of time, as agreed upon by both the Indian Tribe and the Secretary.

''(4) DESIGNATED OFFICIALS.—The Secretary shall designate one or more appropriate officials in the Department to receive a copy of the waiver request described in paragraph (1).

''(5) GROUNDS FOR DENIAL.—The Secretary may deny a request under paragraph (1) upon a specific finding by the Secretary that the identified text in the regulation may not be waived because such a waiver is prohibited by Federal law.

''(6) FAILURE TO MAKE DETERMINATION.—If the Secretary fails to make a determination with respect to a waiver request within the period specified in paragraph (2) (including any extension agreed to under paragraph (3)), the Secretary shall be deemed to have agreed to the request, except that for a waiver request relating to programs eligible under section 403(b)(2) or section 403(c), the Secretary shall be deemed to have denied the request.

''(7) FINALITY.—A decision of the Secretary under this section shall be final for the Department.

''SEC. 410. DISCRETIONARY APPLICATION OF OTHER SECTIONS.

''(a) IN GENERAL.—Except as otherwise provided in section 201(d) of the PROGRESS for Indian Tribes Act, at the option of a participating Indian Tribe or Indian Tribes, any of the provisions of title I may be incorporated in any compact or funding agreement under this title. The inclusion of any such provision shall be subject to, and shall not conflict with, section 101(a) of such Act.

''(b) EFFECT.—Each incorporated provision under subsection (a) shall—

''(1) have the same force and effect as if set out in full in this title;

''(2) supplement or replace any related provision in this title; and

''(3) apply to any agency otherwise governed by this title.

''(c) EFFECTIVE DATE.—If an Indian Tribe requests incorporation at the negotiation stage of a compact or funding agreement, the incorporation shall—

''(1) be effective immediately; and

''(2) control the negotiation and resulting compact and funding agreement.

''SEC. 411. ANNUAL BUDGET LIST.

''The Secretary shall list, in the annual budget request submitted to Congress under section 1105 of title 31, United States Code, any funds proposed to be included in funding agreements authorized under this title.

''SEC. 412. REPORTS.

''(a) IN GENERAL.—

''(1) REQUIREMENT.—On January 1 of each year, the Secretary shall submit to Congress a report regarding the administration of this title.

''(2) ANALYSIS.—Any Indian Tribe may submit to the Office of Self-Governance and to the appropriate committees of Congress a detailed annual analysis of unmet Tribal needs for funding agreements under this title.

''(b) CONTENTS.—The report under subsection (a)(1) shall—

''(1) be compiled from information contained in funding agreements, annual audit reports, and data of the Secretary regarding the disposition of Federal funds;

''(2) identify—

''(A) the relative costs and benefits of self-governance;

''(B) with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian Tribes and members of Indian Tribes;

''(C) the funds transferred to each Indian Tribe and the corresponding reduction in the Federal employees and workload; and

''(D) the funding formula for individual Tribal shares of all Central Office funds, together with the comments of affected Indian Tribes, developed under subsection (d);

''(3) before being submitted to Congress, be distributed to the Indian Tribes for comment (with a comment period of not less than 30 days);

''(4) include the separate views and comments of each Indian Tribe or Tribal organization; and

''(5) include a list of—

''(A) all such programs that the Secretary determines, in consultation with Indian Tribes participating in self-governance, are eligible for negotiation to be included in a funding agreement at the request of a participating Indian Tribe; and

''(B) all such programs which Indian Tribes have formally requested to include in a funding agreement under section 403(c) due to the special geographic, historical, or cultural significance of the program to the Indian Tribe, indicating whether each request was granted or denied, and stating the grounds for any denial.

''(c) REPORT ON NON-BIA PROGRAMS.—

''(1) IN GENERAL.—In order to optimize opportunities for including non-BIA programs in agreements with Indian Tribes participating in self-governance under this title, the Secretary shall review all programs administered by the Department, other than through the Bureau of Indian Affairs, the Office of the Assistant Secretary for Indian Affairs, or the Office of the Special Trustee for American Indians, without regard to the agency or office concerned.

''(2) PROGRAMMATIC TARGETS.—The Secretary shall establish programmatic targets, after consultation with Indian Tribes participating in self-governance, to encourage bureaus of the Department to ensure that an appropriate portion of those programs are available to be included in funding agreements.

''(3) PUBLICATION.—The lists under subsection (b)(5) and targets under paragraph (2) shall be published in the Federal Register and made available to any Indian Tribe participating in self-governance.

''(4) ANNUAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall annually review and publish in the Federal Register, after consultation with Indian Tribes participating in self-governance, revised lists and programmatic targets.

''(B) CONTENTS.—In preparing the revised lists and programmatic targets, the Secretary shall consider all programs that were eligible for contracting in the original list published in the Federal Register in 1995, except for programs specifically determined not to be contractible as a matter of law.

''(d) REPORT ON CENTRAL OFFICE FUNDS.—Not later than January 1, 2019, the Secretary shall, in consultation with Indian Tribes, develop a funding formula to determine the individual Tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs and the Office of the Special Trustee for inclusion in the compacts.

''SEC. 413. REGULATIONS.

''(a) IN GENERAL.—

''(1) PROMULGATION.—Not later than 90 days after the date of enactment of the PROGRESS for Indian Tribes Act, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

''(2) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this title shall be published in the Federal Register not later than 21 months after the date of enactment of the PROGRESS for Indian Tribes Act.

''(3) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under paragraph (1) shall expire on the date that is 30 months after the date of enactment of the PROGRESS for Indian Tribes Act.

''(b) COMMITTEE.—

''(1) MEMBERSHIP.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only representatives of the Federal Government and Tribal government.

''(2) LEAD AGENCY.—Among the Federal representatives described in paragraph (1), the Office of Self-Governance shall be the lead agency for the Department.

''(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian Tribes.

''(d) EFFECT.—

''(1) REPEAL.—The Secretary may repeal any regulation that is inconsistent with this Act.

''(2) CONFLICTING PROVISIONS.—Subject to section 101(a) of the PROGRESS for Indian Tribes Act and except with respect to programs described under section 403(c), this title shall supersede any conflicting provision of law (including any conflicting regulations).

''(3) EFFECTIVENESS WITHOUT REGARD TO REGULATIONS.—The lack of promulgated regulations on an issue shall not limit the effect or implementation of this title.

''SEC. 414. EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCE, AND RULES.

''Unless expressly agreed to by a participating Indian Tribe in a compact or funding agreement, the participating Indian Tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department, except for—

''(1) the eligibility provisions of section 105(g); and

''(2) regulations promulgated pursuant to section 413.

''SEC. 415. APPEALS.

''Except as provided in section 406(d), in any administrative action, appeal, or civil action for judicial review of any decision

made by the Secretary under this title, the Secretary shall have the burden of proof of demonstrating by a preponderance of the evidence—

''(1) the validity of the grounds for the decision; and

''(2) the consistency of the decision with the requirements and policies of this title.

''SEC. 416. APPLICATION OF OTHER PROVISIONS.

''Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1959), shall apply to compacts and funding agreements entered into under this title.

''SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary to carry out this title.''.

TITLE II—INDIAN SELF-DETERMINATION

SEC. 201. DEFINITIONS; REPORTING AND AUDIT REQUIREMENTS; APPLICATION OF PROVISIONS.

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304) is amended by striking subsection (j) and inserting the following:

''(j) 'self-determination contract' means a contract entered into under title I (or a grant or cooperative agreement used under section 9) between a Tribal organization and the appropriate Secretary for the planning, conduct, and administration of programs or services that are otherwise provided to Indian Tribes and members of Indian Tribes pursuant to Federal law, subject to the condition that, except as provided in section 105(a)(3), no contract entered into under title I (or grant or cooperative agreement used under section 9) shall be—

''(1) considered to be a procurement contract; or

''(2) except as provided in section 107(a)(1), subject to any Federal procurement law (including regulations);''.

(2) TECHNICAL AMENDMENTS.—Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), as amended by paragraph (1), is further amended—

(A) in subsection (e), by striking '' 'Indian tribe' means'' and inserting '' 'Indian tribe' or 'Indian Tribe' means''; and

(B) in subsection (l), by striking '' 'tribal organization' means'' and inserting '' 'Tribal organization' or 'tribal organization' means''.

(b) REPORTING AND AUDIT REQUIREMENTS.—Section 5 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5305) is amended—

(1) in subsection (b)—

(A) by striking ''after completion of the project or undertaking referred to in the preceding subsection of this section'' and inserting ''after the retention period for the report that is submitted to the Secretary under subsection (a)''; and

(B) by adding at the end the following: ''The retention period shall be defined in regulations promulgated by the Secretary pursuant to section 413.''; and

(2) in subsection (f)(1), by inserting ''if the Indian Tribal organization expends $500,000 or more in Federal awards during such fiscal year'' after ''under this Act,''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b)(2) shall not take effect until 14 months after the date of enactment of this Act.

(d) APPLICATION OF OTHER PROVISIONS.—Sections 4, 5, 6, 7, 102(c), 104, 105(a)(1), 105(f), 110, and 111 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304, 5305, 5306, 5307, 5321(c), 5323, 5324(a)(1), 5324(f), 5331, and 5332) and section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1959), apply to compacts and funding agreements entered into under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5361 et seq.).

SEC. 202. CONTRACTS BY SECRETARY OF THE INTERIOR.

Section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5321) is amended—

(1) in subsection (c)(2), by striking ''economic enterprises'' and all that follows through ''except that'' and inserting ''economic enterprises (as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452)), except that''; and

(2) by adding at the end the following:

''(f) GOOD FAITH REQUIREMENT.—In the negotiation of contracts and funding agreements, the Secretary shall—

''(1) at all times negotiate in good faith to maximize implementation of the self-determination policy; and

''(2) carry out this Act in a manner that maximizes the policy of Tribal self-determination, in a manner consistent with—

''(A) the purposes specified in section 3; and

''(B) the PROGRESS for Indian Tribes Act.

''(g) RULE OF CONSTRUCTION.—Subject to section 101(a) of the PROGRESS for Indian Tribes Act, each provision of this Act and each provision of a contract or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in self-determination, and any ambiguity shall be resolved in favor of the Indian Tribe.''.

SEC. 203. ADMINISTRATIVE PROVISIONS.

Section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5324) is amended—

(1) in subsection (b), in the first sentence, by striking ''pursuant to'' and all that follows through ''of this Act'' and inserting ''pursuant to sections 102 and 103''; and

(2) by adding at the end the following:

''(p) INTERPRETATION BY SECRETARY.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws (including regulations) and Executive orders in a manner that facilitates, to the maximum extent practicable—

''(1) the inclusion in self-determination contracts and funding agreements of—

''(A) applicable programs, services, functions, and activities (or portions thereof); and

''(B) funds associated with those programs, services, functions, and activities;

''(2) the implementation of self-determination contracts and funding agreements; and

''(3) the achievement of Tribal health objectives.

''(q)(1) TECHNICAL ASSISTANCE FOR INTERNAL CONTROLS.—In considering proposals for, amendments to, or in the course of, a contract under this title and compacts under titles IV and V of this Act, if the Secretary determines that the Indian Tribe lacks adequate internal controls necessary to manage the contracted program or programs, the Secretary shall, as soon as practicable, provide the necessary technical assistance to assist the Indian Tribe in developing adequate internal controls. As part of that technical assistance, the Secretary and the Tribe shall develop a plan for assessing the subsequent effectiveness of such technical assistance. The inability of the Secretary to provide technical assistance or lack of a plan under this subsection shall not result in the reassumption of an existing agreement, contract, or compact, or declination or rejection of a new agreement, contract, or compact.

''(2) The Secretary shall prepare a report to be included in the information required for the reports under sections 405(b)(1) and 514(b)(2)(A). The Secretary shall include in this report, in the aggregate, a description of the internal controls that were inadequate, the technical assistance provided, and a description of Secretarial actions taken to address any remaining inadequate internal controls after the provision of technical assistance and implementation of the plan required by paragraph (1).''.

SEC. 204. CONTRACT FUNDING AND INDIRECT COSTS.

Section 106(a)(3) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325(a)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking '', and'' and inserting ''; and''; and

(B) in clause (ii), by striking ''expense related to the overhead incurred'' and inserting ''expense incurred by the governing body of the Indian Tribe or Tribal organization and any overhead expense incurred'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) In calculating the reimbursement rate for expenses described in subparagraph (A)(ii), not less than 50 percent of the expenses described in subparagraph (A)(ii) that are incurred by the governing body of an Indian Tribe or Tribal organization relating to a Federal program, function, service, or activity carried out pursuant to the contract shall be considered to be reasonable and allowable.''.

SEC. 205. CONTRACT OR GRANT SPECIFICATIONS.

Section 108 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5329) is amended—

(1) in subsection (a)(2), by inserting ''subject to subsections (a) and (b) of section 102,'' before ''contain'';

(2) in subsection (f)(2)(A)(ii) of the model agreement contained in subsection (c), by inserting ''subject to subsections (a) and (b) of section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5321),'' before ''such other provisions''; and

(3) in subsection (b)(7)(C) of the model agreement contained in subsection (c), in the second sentence of the matter preceding clause (i), by striking ''one performance monitoring visit'' and inserting ''two performance monitoring visits''.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

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

NATIONAL WORKFORCE DEVELOPMENT MONTH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 632 and the Senate proceed to its immediate consideration.

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

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 632) designating September 2018 as ''National Workforce Development Month.''

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be

agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 632) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of September 18, 2018, under ''Submitted Resolutions.'')

SICKLE CELL DISEASE AWARENESS MONTH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 661, submitted earlier today.

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

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 661) expressing support for the designation of September 2018 as ''Sickle Cell Disease Awareness Month'' in order to educate communities across the United States about sickle cell disease and the need for research, early detection methods, effective treatments, and preventative care programs with respect to sickle cell disease, complications from sickle cell disease, and conditions related to sickle cell disease.

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

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

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

The resolution (S. Res. 661) was agreed to.

The preamble was agreed to.

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

CAMPUS FIRE SAFETY MONTH

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 662, submitted earlier today.

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

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 662) designating September 2018 as ''Campus Fire Safety Month.''

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

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

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

The resolution (S. Res. 662) was agreed to.

The preamble was agreed to.

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

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of the House message to accompany H.R. 6, the opioids bill. I further ask consent that the majority leader or his designee be recognized to make a motion to concur; that there be up to 4 hours of debate on the motion, equally divided in the usual form; and that following the use or yielding back of that time, the Senate vote on the motion to concur with no further intervening action or debate.

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

NOMINATION OF BRETT KAVANAUGH

Mr. MCCONNELL. Mr. President, for the information of all of our colleagues, there were two very significant developments today.

This morning, the Judiciary Committee reported out Judge Kavanaugh favorably. All 11 Republican members of the Judiciary Committee voted in favor of reporting him out with a favorable recommendation. No. 2, we will shortly move to proceed to the Kavanaugh nomination, and I am pleased to announce that all 51 Republican Members of the Senate support the motion to proceed to the nomination. One hundred percent of the Republican conference supports proceeding to the Kavanaugh nomination.

Now, in committee, they reviewed the most pages of documents ever produced pertaining to any Supreme Court nomination—literally, hundreds of judicial opinions from his tenure on the Court of Appeals for the DC Circuit and 5 days of hearings during which Judge Kavanaugh testified for nearly 40 hours. Judge Kavanaugh testified on every topic, from complicated legal subjects to sensitive personal matters, and there were statements and testimony from countless personal friends, classmates, coworkers, former clerks, and other associates.

So the picture that has emerged from all of this is clear: Judge Kavanaugh is one of the most qualified and most impressive Supreme Court nominees in the history of our country.

He has excelled at the highest levels of legal scholarship. He holds two degrees from Yale and, for years, has lectured at Harvard Law School. He has issued more than 300 legal opinions from what is widely considered the second highest court in the Nation. Several have subsequently been cited in the Supreme Court's own majority opinions. Along the way, he has built an outstanding reputation within the legal community for his clear and thoughtful writing and his exemplary, fairminded judicial temperament.

Judge Kavanaugh's qualifications have been affirmed by his peers and by renowned legal scholars from across the ideological spectrum. One self-described liberal Democrat who advised him at Yale Law School said that Judge Kavanaugh ''commands wide and deep respect among scholars, lawyers, and jurists.''

This praise has been echoed by hundreds of character witnesses who have testified before the Senate or written us letters to praise Judge Kavanaugh's personal character and his integrity in the strongest terms.

The committee has also thoroughly investigated the last-minute allegations that have been brought forward. The evidence that has been produced either fails to corroborate these accusations or, in fact, support Judge Kavanaugh's unequivocal denial, and, in some cases, the accusers have even recanted their baseless allegations.

All in all, this is a nominee who has received what many have considered the gold standard of judicial qualification—a rating of unanimously ''well qualified'' from the American Bar Association.

So this is a nomination that deserves to move forward, and that is precisely what is happening.

I commend our colleagues on the committee for sending this impressive nominee here to the floor with a favorable recommendation.

Now we will keep the process moving. The full Senate will begin consideration of Judge Kavanaugh's nomination today.

SPORTS MEDICINE LICENSURE CLARITY ACT OF 2017

Mr. MCCONNELL. Mr. President, I understand the Senate has received a message from the House to accompany H.R. 302.

The ACTING PRESIDENT Pro Tempore. The Senator is correct.

Mr. MCCONNELL. I move that the Chair lay before the Senate the message to accompany H.R. 302.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, that the House agree to the amendment of the Senate to the bill (H.R. 302) entitled ''An Act to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State,'' with an amendment to the Senate amendment.

MOTION TO CONCUR

Mr. MCCONNELL. I move to concur in the House amendment to the Senate amendment.

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

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to concur in the House amendment to the Senate amendment to H.R. 302.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk on the motion to concur.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 motion to concur in the House amendment to the Senate amendment to H.R. 302, an act to provide protections for certain sports medicine professionals who provide certain medical services in a secondary State.

Mitch McConnell, Marco Rubio, Johnny Isakson, Orrin G. Hatch, Lamar Alexander, John Boozman, Jerry Moran, Mike Crapo, Thom Tillis, Roger F. Wicker, Todd Young, John Thune, Tim Scott, Deb Fischer, John Barrasso, Roy Blunt, Cory Gardner.

MOTION TO CONCUR WITH AMENDMENT NO. 4026

Mr. MCCONNELL. I move to concur in the House amendment with a further amendment.

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

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to concur in the House amendment to the Senate amendment to H.R. 302, with an amendment numbered 4026.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end add the following.

''This Act shall take effect 1 day after the date of enactment.''

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4027 TO AMENDMENT NO. 4026

Mr. MCCONNELL. I have a second-degree amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4027 to amendment No. 4026.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike ''1 day'' and insert ''2 days''

MOTION TO REFER WITH AMENDMENT NO. 4028

Mr. MCCONNELL. I move to refer the House message on H.R. 302 to the Committee on Commerce with instructions to report back forthwith.

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

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to refer the message to accompany H.R. 302 to the Committee on Commerce with instructions, being amendment numbered 4028.

The amendment is as follows:

At the end add the following.

''This Act shall take effect 3 days after the date of enactment.''

Mr. MCCONNELL. I ask for the yeas and nays on my motion.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4029

Mr. MCCONNELL. I have an amendment to the instructions.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4029 to the instructions of the motion to refer H.R. 302.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike ''3 days'' and insert ''4 days''

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4030 TO AMENDMENT NO. 4029

Mr. MCCONNELL. I have a second-degree amendment at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4030 to amendment No. 4029.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike ''4'' and insert ''5''

Mr. MCCONNELL. I ask unanimous consent that the mandatory quorum call be waived.

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

UNANIMOUS CONSENT AGREEMENT—HOUSE MESSAGE TO ACCOMPANY H.R. 302

Mr. MCCONNELL. Mr. President, I ask unanimous consent that notwithstanding rule XXII, at 5 p.m. on Monday, October 1, the Senate resume consideration of the House message to accompany H.R. 302, as if in legislative session; further, that at 5:30 p.m. on Monday, the Senate vote on the motion to invoke cloture on the motion to concur; further, that if cloture is invoked, the Senate remain in executive session and the postcloture time continue to run as otherwise under the rule; finally, that upon the use or yielding back of the postcloture time, the Senate vote, as if in legislative session, on the motion to concur.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 1127.

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

The question is on agreeing to the motion.

The motion was agreed to.

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

The senior assistant legislative clerk read the nomination of Brett M. Kavanaugh, of Maryland, to be an Associate Justice of the Supreme Court of the United States.

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the majority leader and the senior Senator from Arkansas be authorized to sign duly enrolled bills or joint resolutions during the upcoming recess of the Senate.

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

ORDERS FOR MONDAY, OCTOBER 1, 2018

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until 3 p.m., Monday, October 1; that following the prayer and pledge, the Journal of proceedings be approved to date and the time for the two leaders be reserved for their use later in the day.

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

RECESS UNTIL MONDAY, OCTOBER 1, 2018, AT 3 P.M.

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask that it stand in recess under the previous order.

Thereupon, the Senate, at 6:21 p.m., recessed until Monday, October 1, 2018, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate:

FEDERAL RESERVE SYSTEM

JEAN NELLIE LIANG, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2010, VICE JANET L. YELLEN, RESIGNED.

TRADE AND DEVELOPMENT AGENCY

DARRELL E. ISSA, OF CALIFORNIA, TO BE DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY, VICE LEOCADIA IRINE ZAK.

UNITED NATIONS

ANDREW P. BREMBERG, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE OFFICE OF THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF STATE

JEFFREY L. EBERHARDT, OF WISCONSIN, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR NUCLEAR NONPROLIFERATION, WITH THE RANK OF AMBASSADOR.

CHRISTOPHER PAUL HENZEL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

LYNNE M. TRACY, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER–COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

UNITED STATES PAROLE COMMISSION

VIRGIL MADDEN, OF INDIANA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE PATRICIA CUSHWA, TERM EXPIRED.

MONICA DAVID MORRIS, OF FLORIDA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE J. PATRICIA WILSON SMOOT, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICAH B. BELL
EDWARD G. DEXTRAZE
THADDEUS D. FINERAN
BRIAN S. HERRINGTON
JAMES W. HICKS
MAURICE A. MARSHALL
EARL G. MATTHEWS
THOMAS R. MORTIMER III
PAUL T. SELLARS
JOSEPH J. SHARKEY
TANYA R. TROUT

WITHDRAWAL

Executive Message transmitted by the President to the Senate on September 28, 2018 withdrawing from further Senate consideration the following nomination:

ANTHONY KURTA, OF MONTANA, TO BE A PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE, VICE LAURA JUNOR, RESIGNED, WHICH WAS SENT TO THE SENATE ON JULY 25, 2017.