rule is completely optional while the Republican measure is a mandate. In fact, the current rule goes out of its way to make sure that decision making remains solely in the hands of the fiduciary. Nothing changes the fact that investment decisions must be shown to be prudent above all else.

Now, the hard right has made a lot of noise trying to make ESG their dirty little acronym. They say this is about wokeness, that this is a cult, that it is some grave intrusion into finance. It is the same predictable, uncreative, unproductive attacks they use for anything they don't like.

But this isn't about ideological preference. ESG is about looking at the biggest picture possible so the investors can make decisions that decrease risk while increasing returns. In fact, more than 90 percent of S&P companies already publish ESG reports today. So none of this is new. It has been a long-established practice, one that Republicans suddenly say they don't like and want to forbid.

But why shouldn't managers evaluate the risks posed by an increasingly volatile climate if they deem it helps them get a return on their investment? Why shouldn't they consider the consequences of an aging population or other trends that could impact their portfolio? And even a better question is this: Why are Republicans going out of their way to prohibit investors from making the best possible choices as they manage their funds? Why are Republicans trying to forbid investors from considering climate and other factors if they believe it would help them get a better return?

The bottom line is this: The present rule gives investment managers an option. The Republican rule, on the other hand, ties investors' hands. Republicans talk about their love of the free market, small government, letting the private sector do its work, but their obsession with eliminating ESG would do the opposite, forcing their own views down the throats of every company and investor. The Republican amendment, again, would force their own views down the throats of every company and investor.

You know what we say on this side? Let the market work. If that naturally leads to consideration of ESG factors, then Republicans should practice what they have long preached and get out of the way.

I thank my Democratic colleagues who are joining us in opposition to this measure.

I yield the floor and call the question.

The PRESIDING OFFICER. The clerk will read the title of the joint resolution for a third time.

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

VOTE ON H.J. RES. 30

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

Mr. BRAUN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Pennsylvania (Mr. FETTERMAN), and the Senator from Oregon, (Mr. MERKLEY) are necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Idaho (Mr. CRAPO).

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—50

| | | |
|---|---|---|
| Barrasso | Grassley | Ricketts |
| Blackburn | Hagerty | Risch |
| Boozman | Hawley | Romney |
| Braun | Hoeven | Rounds |
| Britt | Hyde-Smith | Rubio |
| Budd | Johnson | Schmitt |
| Capito | Kennedy | Scott (FL) |
| Cassidy | Lankford | Scott (SC) |
| Collins | Lee | Sullivan |
| Cornyn | Lummis | Tester |
| Cotton | Manchin | Thune |
| Cramer | Marshall | Tillis |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Vance |
| Ernst | Mullin | Wicker |
| Fischer | Murkowski | Young |
| Graham | Paul | |

NAYS—46

| | | |
|---|---|---|
| Baldwin | Hickenlooper | Sanders |
| Bennet | Hirono | Schatz |
| Blumenthal | Kaine | Schumer |
| Booker | Kelly | Shaheen |
| Brown | King | Sinema |
| Cantwell | Klobuchar | Smith |
| Cardin | Luján | Stabenow |
| Carper | Markey | Van Hollen |
| Casey | Menendez | Warner |
| Coons | Murphy | Warnock |
| Cortez Masto | Murray | Warren |
| Duckworth | Ossoff | Welch |
| Durbin | Padilla | Whitehouse |
| Gillibrand | Peters | Wyden |
| Hassan | Reed | |
| Heinrich | Rosen | |

NOT VOTING—4

| | |
|---|---|
| Crapo | Fetterman |
| Feinstein | Merkley |

The joint resolution (H.J. Res. 30) was passed.

## EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session.

## CLOTURE MOTION

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

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 39, James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California.

Charles E. Schumer, Richard J. Durbin, Jeff Merkley, Jeanne Shaheen, Elizabeth Warren, Sheldon Whitehouse, Richard Blumenthal, Christopher A. Coons, Jack Reed, Alex Padilla, Gary C. Peters, Angus S. King, Jr., Mazie K. Hirono, Tim Kaine, Brian Schatz, Cory A. Booker.

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

The question is, Is it the sense of the Senate that debate on the nomination of James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Pennsylvania (Mr. FETTERMAN), and the Senator from Oregon (Mr. MERKLEY) are necessarily absent.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Idaho (Mr. CRAPO).

The yeas and nays resulted—yeas 51, nays 45, as follows:

[Rollcall Vote No. 36 Ex.]

YEAS—51

| | | |
|---|---|---|
| Baldwin | Heinrich | Rosen |
| Bennet | Hickenlooper | Sanders |
| Blumenthal | Hirono | Schatz |
| Booker | Kaine | Schumer |
| Brown | Kelly | Shaheen |
| Cantwell | King | Sinema |
| Cardin | Klobuchar | Smith |
| Carper | Luján | Stabenow |
| Casey | Manchin | Tester |
| Collins | Markey | Tillis |
| Coons | Menendez | Van Hollen |
| Cortez Masto | Murphy | Warner |
| Duckworth | Murray | Warnock |
| Durbin | Ossoff | Warren |
| Gillibrand | Padilla | Welch |
| Graham | Peters | Whitehouse |
| Hassan | Reed | Wyden |

NAYS—45

| | | |
|---|---|---|
| Barrasso | Grassley | Paul |
| Blackburn | Hagerty | Ricketts |
| Boozman | Hawley | Risch |
| Braun | Hoeven | Romney |
| Britt | Hyde-Smith | Rounds |
| Budd | Johnson | Rubio |
| Capito | Kennedy | Schmitt |
| Cassidy | Lankford | Scott (FL) |
| Cornyn | Lee | Scott (SC) |
| Cotton | Lummis | Sullivan |
| Cramer | Marshall | Thune |
| Cruz | McConnell | Tuberville |
| Daines | Moran | Vance |
| Ernst | Mullin | Wicker |
| Fischer | Murkowski | Young |

NOT VOTING—4

| | |
|---|---|
| Crapo | Fetterman |
| Feinstein | Merkley |

The PRESIDING OFFICER (Ms. CORTEZ MASTO). On this vote, the yeas are 51, the nays are 45.

The motion is agreed to.

## EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of James Edward Simmons, Jr., of California, to be United States District Judge for the Southern District of California.

The PRESIDING OFFICER. The majority whip.

EQUAL RIGHTS AMENDMENT

Mr. DURBIN. Madam President, yesterday was an interesting day for me personally, but it was an interesting day, more importantly, in the history of the United States when it comes to the Equal Rights Amendment.

The Equal Rights Amendment was first introduced in 1923, 100 years ago—100 years ago. It was proposed by a leader named Dr. Alice Paul. At the time, she had just won an important victory. She and her fellow suffragists had just led successfully the campaign to ratify the 19th Amendment to give women the right to vote in the United States—100 years ago.

Despite this monumental achievement, Dr. Paul recognized that just the right to vote was not enough for gender equality, but it was the right starting point. So she devoted the remaining years of her life to enshrining gender equality in every facet of American life and particularly into the Constitution with the Equal Rights Amendment.

Sadly, Dr. Paul and her fellow suffragists passed away long before they could see the ERA become the law of the land, but their legacy lives on today in a new generation of activists, lawmakers, and trailblazers who are propelling the movement for equality forward.

The personal side of this relates to the fact that when I graduated from law school in 1969, I went to work for the Lieutenant Governor of Illinois, Paul Simon, who later served here in the Senate. One of my first assignments in the Illinois State Senate was to work for the passage of the Equal Rights Amendment in the State of Illinois.

The road to ratification has been long and winding. I continue to be amazed by the proposal. Fifty years ago, it really came down to some very basic arguments, and the leading argument against the Equal Rights Amendment was that men and women would have to share public restrooms. When I say that, you think: Wait a minute. You want enshrined in the Constitution the constitutional rights of more than half of the people living in America, and the article came down to a debate over the future of public restrooms? I have to tell you, that had more to do with it than almost anything else. I heard that argument over and over and over again.

The ERA is a rallying cry for Americans young and old for good reason. As the 28th Amendment to the Constitution, it would ensure that our Nation lives up to the promise of real equality, and, frankly, it is a principle that should be enshrined in the Constitution.

Thirty-eight States have ratified the Equal Rights Amendment in the past half century—the most recent, Virginia in 2020. Thirty-eight is the exact number needed to certify an amendment to the Constitution. The only thing standing in the way of an Equal Rights Amendment is an arbitrary deadline that Congress included in the preamble—let me underline those three words, ''in the preamble''—of this amendment as it passed in 1972 clarifying that this was not the controlling but simply in the preamble, is what the current controversy is about.

During yesterday's hearing on the ERA, we heard from several witnesses: my own home State Lieutenant Governor, Juliana Stratton, and a young woman whose name is Thursday Williams, a first-generation American, a board member of the ERA Coalition, and a senior at Trinity College in Connecticut. She spoke on behalf of a lot of young people. She is a college senior. Her compelling testimony was a testament to the value of her voice in the conversation. I am glad she was there.

After graduating college, Ms. WILLIAMS plans to become an attorney. She said:

[I] fell in love with the United States Constitution in high school.''

You don't hear that very often, do you?

She said:

What I love the most about the Constitution is how brilliantly it was designed to adapt to the changing needs of its people.

She argued that today the American people deserve a Constitution that guarantees equality regardless of sex, a Constitution that we can use as a tool to fight discrimination.

She concluded her testimony by asking the members of the committee:

If we continue to hold back more than half of [the] people [in America] from accessing equal opportunities, what does that say about us as a country?

How can we be the beacon of freedom and democracy we claim to be if we don't declare that sex discrimination contradicts the American dream?

This young college student is pretty smart, as far as I am concerned. She knew exactly the right question to ask. Generations of Americans have been waiting for us in Congress to protect their fundamental rights.

Congress approved the ERA 50 years ago, but in doing so, we imposed that arbitrary time limit for ratification. That is why our hearing yesterday was so important. The members of the committee were not merely discussing the importance of the ERA; we were urging our colleagues to join us in passing it.

This joint resolution already has bipartisan support in both Chambers. I want to salute Senator MURKOWSKI of Alaska, with Senator BEN CARDIN, for joining us in cosponsoring this effort. We can't wait any longer.

I listened to the arguments about opposing the Equal Rights Amendment in this year, 2023. Fifty years ago, the argument was, we can't see how we are going to resolve public restrooms. Now the argument raised by one of the witnesses called by the Republicans was, we are worried about the impact that an Equal Rights Amendment would have on the future of field hockey—field hockey. The woman who testified, representing one of the Koch Industries' entities that have been created to do politicking, said she couldn't explain to her daughter or guarantee to her that there wouldn't be some clash as to whether men could play on her field hockey team.

I would say to her with all due respect—and I have been a parent myself; still am—that it is time to sit down and talk to her daughter about the basics, and the basics are the constitutional guarantee of her rights for the rest of her natural life, not the next field hockey game.

There is more at stake here, and it probably relates less to her because of who she is and her family than it does to all the other women whose lives would be improved by the passage of the Equal Rights Amendment. That is where we stand today.

There is no room for uncertainty when it comes to protecting equal rights under the law. That is a lesson that was driven home last year when the Supreme Court overturned Roe v. Wade. For the first time in history—for the first time in the history of the United States of America—the Supreme Court ripped away a constitutional right from the American people. That has never, never happened before.

One of the Supreme Court Justices—by name, Clarence Thomas—made it clear that this was just the beginning. He was going to call into question a lot of fundamental constitutional rights, like the right to privacy, the right to reproductive freedom, the right to family planning.

So now Members of the Senate have to make a decision during our time: What kind of America do we want for our granddaughters and daughters—a country in which the fundamental rights are safe and secure or one in which the Constitution still—still, 100 years after we started—fails to recognize fundamental equality on the basis of sex?

I think the hearing was very clear, and I think the issue is very clear. I know what I want to be able to explain to my little granddaughter. She is only 3½ now, but I hope to live long enough to someday sit down with her and have a serious conversation about this. I want to tell her that during the course of my life, her constitutional rights in America were at issue and that we did the right thing for her and for her daughter and her daughter's daughter and everyone born in America in guaranteeing basic equality.

GUANTANAMO BAY

Madam President, I want to tell you about a young law student whose name is Leila Murphy. She was 3 years old when her father Brian was killed. Her oldest sister, Jessica, was only 5. It is a day Leila was too young to remember, let alone comprehend, but for the Americans who are old enough, it is a day we will never forget—9/11/2001.

Leila grew up in the shadow of the 9/11 attacks. She recently wrote me a