

# ATTORNEY GENERAL

## STATE OF MONTANA



Tim Fox  
Attorney General

Department of Justice  
Joseph P. Mazurek Justice Bldg.  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

March 30, 2017

The Honorable Senator Jon Tester  
U.S. Senator, Montana  
311 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Tester,

Now that the confirmation hearings for Judge Neil Gorsuch have concluded, and now that more than ample time has passed for thoroughly vetting him, I write to offer my views on his confirmation.

I have researched the judge's education, background, and opinions, have read what others who know and have worked with him say about him, and I've watched his confirmation hearings. With my 30 years of Montana and national experience as an attorney, and with hundreds of appearances before judges in local, state and federal courts, including federal circuit court and Supreme Court advocacy, I find Judge Gorsuch to be extremely well qualified, mainstream, and worthy of confirmation. In fact, I am sure that Judge Gorsuch's exemplary qualifications are what led former Montana Senator Max Baucus, along with every other Democrat and Republican Senator, to confirm him to the Tenth Circuit Court of Appeals in 2006. Notably, Senators voting to confirm Judge Gorsuch that year included Barack Obama, Joe Biden, Chuck Schumer and Hillary Clinton. In addition, Judge Gorsuch's Rocky Mountain state upbringing and residency would add a western perspective to the Court that would be good for Montana and, indeed, the other justices on our high court.

His demonstrated knowledge and thoughtful application of Federal Indian Law and tribal sovereignty is also refreshing and important to Montana tribal nations and indigenous people, so much so that his confirmation is a once-in-a-lifetime opportunity that cannot be lost. I believe that is one of the reasons why the tribal leaders of the Confederated Salish and Kootenai, Crow, Fort Peck and Fort Belknap tribal nations, as well as the National Congress of American Indians and the Native

TELEPHONE: (406) 444-2026    FAX: (406) 444-3549    E-MAIL: [contactdoj@mt.gov](mailto:contactdoj@mt.gov)    WEB: [mtdoj.gov](http://mtdoj.gov)

### MONTANA DEPARTMENT OF JUSTICE

Legal Services Division ★ Division of Criminal Investigation ★ Highway Patrol Division ★ Forensic Science Division  
Gambling Control Division ★ Motor Vehicle Division ★ Information Technology Services Division ★ Central Services Division

Senator Jon Tester

March 30, 2017

Page 2

American Rights Fund, have endorsed the confirmation of Judge Gorsuch. Your guest at President Trump's speech to the Joint Session of Congress in February, Crow Tribal Chairman A.J. Not Afraid, had this to say about Judge Gorsuch in a March 27, 2017, letter to Senate leadership:

Judge Gorsuch's record includes a great number of decisions involving tribal governments, tribal people and tribal interests, and he has consistently demonstrated not only a sound understanding of Federal Indian Law principles, but a respect for our unique and closely held cultural values. The importance of having a sitting Justice on the U.S. Supreme Court who understands Federal Indian Law and treats tribes fairly cannot be overstated, since it is this Court that is all too often called upon to define, recognize, and in some cases, limit the rights we wield as separate sovereigns within the context of this great nation we all live under.

Finally, I note that the American Bar Association's standing committee on the federal judiciary unanimously gave Judge Gorsuch its highest rating, finding him "well-qualified" to serve on our nation's highest court. While some Senators may not vote to confirm Judge Gorsuch because doing so would be largely politically unpopular in their blue home states, that's not Montana sentiment, and there can be no doubt that confirming Judge Gorsuch would be in the best interests of Montana and our nation.

I urge you to vote to confirm Judge Gorsuch, and I stand ready to assist you in concluding your decision-making process so that you can be confident in a vote for confirmation. Please do not hesitate to call me if I can be of service to you on this important matter. Thank you for your consideration of my opinion.

Sincerely,



TIM FOX  
Attorney General