

POLITICAL FIX

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Democrats like McCaskill caught between 'historic stakes' and immediate politics on Kavanaugh nomination

By Chuck Raasch St. Louis Post-Dispatch 38 min ago

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WASHINGTON • The “stakes for this nomination are historic,” says Sen. Dick Durbin, D-Ill., on President Donald Trump’s choice of Brett Kavanaugh for the Supreme Court.

For Durbin’s Senate colleague Claire McCaskill, the stakes are immediate.

Her re-election chances this fall could depend heavily on how she votes on the nomination, how she explains that vote, and how her Republican foes frame it against her long-standing claims that she is a centrist, not beholden to her party’s leftward-moving liberal wing.

These conflicting impulses define the Democrats, especially those fighting for survival in the U.S. Senate, over the next four months. With control of the Senate at stake, Kavanaugh’s nomination has prompted a fresh ideological debate over everything from abortion to health care. His confirmation hearing probing his judicial stance on these topics will provide daily drama later this summer, or early fall, just as voters start paying attention before the Nov. 6 elections.

McCaskill is a heavy favorite to win her party’s nomination, while Attorney General Josh Hawley — with competition from ex-Libertarian Austin Petersen and former Air Force pilot Tony Monetti, among others — is the Republican front-runner.

McCaskill has already been attacked on her opposition to Trump’s 2017 nominee, Neil Gorsuch. Another “no” on a second Trump nominee would be a chance for Republicans to double down that attack in a state Trump won by almost 19 percentage points in 2016.

She said Tuesday that the fact that she has voted to approve nearly eight out of 10 Trump nominees to lower courts proves she takes each case on merit.

“I am going to look at his record. I am going to be very diligent,” McCaskill said. “I am going to go through all of his writings. I am going to visit with him, obviously, and then I am going to make a decision on what is right.

“Anyone who thinks you can make some purely political decision on this is not being realistic about a state like Missouri,” McCaskill said. “It is not like I make a whole bunch of people happy no matter how I vote. The bottom line is you just do what is right and explain it, and Missourians, I think, will understand.”

Hawley will greet Vice President Mike Pence in Kansas City on Wednesday, as Pence campaigns for endangered Kansas Republican Rep. Kevin Yoder. Trump’s nomination of Kavanaugh is almost certain to be mentioned as an opportunity to turn the nation’s highest court rightward for a generation. Pence, whose PAC recently donated to Hawley’s campaign, is expected to return to the state in coming weeks to campaign for Hawley. Other members of the Trump administration are expected to follow, with the Kavanaugh nomination in their proverbial hip pockets.

McCaskill “refuses to abandon (Senate Democratic Leader) Chuck Schumer and her left-wing allies, and we can expect this time to be no different,” Hawley said. “Missourians deserve a senator who will fight for our way of life and support a constitutional conservative like Judge Kavanaugh.”

If McCaskill opposes Kavanaugh, Republicans have further claims that she is a liberal in a moderate cloak, an obstructionist to the most consequential pieces of Trump’s agenda.

If she votes for Kavanaugh, she risks alienating her left wing while being vulnerable to GOP attacks that she is a political opportunist out to save her seat, since Kavanaugh’s judicial patina may be more conservative than Gorsuch’s.

Representatives of several groups, including NARAL Pro-Choice America and Missouri Health Care for All, held a news conference Tuesday near a sculpture of Dred and Harriet Scott at the Old Courthouse in St. Louis to urge McCaskill

and Sen. Roy Blunt, R-Mo., to vote against Kavanaugh.

“In recent years, the Supreme Court has been the last defense against attempts to use the legal system to take away Americans’ health care,” said Erica Williams, a board member of Missouri Health Care for All, referring to the court’s decision to uphold the Affordable Care Act, and subsequent Republican efforts chipping away at its basic tenets, including those granting insurance to people with pre-existing conditions.

Democratic leaders are not making it any easier on their red-state incumbents, like McCaskill, and Sens. Heidi Heitkamp, D-N.D., Joe Manchin, D-W.Va., and Joe Donnelly, D-Ind. The latter three all voted for Gorsuch, Trump’s first court nominee.

Recent polling by the political site Axios showed McCaskill and Hawley essentially tied in Missouri. But Heitkamp and Donnelly, along with Florida Democratic Sen. Bill Nelson, trail Republican opponents.

The legislative math is this: Democrats can lose only one or two of these senators on the Kavanaugh vote and still maintain any reasonable expectations of defeating his nomination. They can blame previous Democratic Senate Leader Harry Reid for this equation. Frustrated by Republican obstruction on Barack Obama court nominees, Reid (whom McCaskill opposed as Senate leader) changed Senate rules on the threshold of approval for federal judges to a simple majority of 51 from 60.

The electoral math is this: If Democrats lose one or more of those Senate seats cited above, their chances of taking control of the Senate — and therefore defeating future Trump judicial nominees — go way down.

Meanwhile, Democratic Senate leaders keep sending out political dog whistles to red-state Democrats facing election in four months, saying everything from abortion rights to health care is at stake.

“Replacing Justice (Anthony) Kennedy’s swing vote with a far-right jurist like Judge Kavanaugh could change the rules in America,” Durbin said.

But the choice of Kavanaugh is not a slam-dunk defense for Republicans, either. Despite Trump campaign promises to “drain the swamp” with fresh faces and ideas, Kavanaugh is the consummate Washington and political elite insider.

He was born inside the D.C. Beltway, schooled at prestigious Georgetown Prep, got an undergraduate and law degree at Yale, was an assistant to independent counsel Ken Starr’s investigation of President Bill Clinton, worked in Republican legal circles and at the White House under George W. Bush, and has served for 12 years on the District of Columbia’s federal Court of Appeals.

How Kavanaugh relates to Missouri’s “way of life” — Hawley’s standard — is an open question in a campaign season that is getting hotter by the day.

Maureen Strode of the Post-Dispatch contributed to this report.

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