for all of Stew's colleagues, that level of good cheer and concern for others really has been typical for a dozen years.

That is why his departure has triggered an avalanche of tributes from people all over Washington and beyond, people—many of them junior people—whom he wrote back with advice, met for coffee, shared some wisdom; this sprawling family tree of men and women who all feel that, one way or another, they owe a significant part of their success and careers to him. On that note, I have to say I know exactly how they feel.

So today I have to say goodbye to an all-star staff leader who took his job about as seriously as anybody you will ever meet but who took himself far less seriously than most people you will ever meet in the process. Professional excellence and personal humility are rare virtues. Having a heavy dose of either is impressive, but only the combination can explain Stew. There are plenty of people in this town who haven't tackled nearly the challenges or rubbed nearly the elbows he has, but you better believe their egos dwarf his. His resume looks like he belongs in fancy cocktail parties in tony neighborhoods, but I am not positive Stew would even be allowed into a fancy cocktail party. Regardless, I doubt he would find much time for the elite guests; he would be too engrossed in conversation with the security guards, valet parking attendants, hospitality staff, talking Nationals baseball and everything else under the Sun with the people who actually made the thing go.

Never before yesterday had I seen a large number of Capitol police officers gather to surprise a departing Senate staffer and send him off as if he were one of their own. That is the admiration and love that Stew has for the men and women who keep us safe—and vice versa. I know nothing I say today will really compete with that tribute. The only kind of man who would earn that sort of salute is the kind of man who would prize it above and beyond any fancy praise offered in a place like this. Don't get me wrong. Stew reveres this institution, but he never once seemed to covet the trappings or the power for its own sake; he just seemed honored to serve.

My colleagues and I are sad to bid farewell to the Senate staffer who made himself thoroughly famous by trying not to make himself famous. We are sorry to part with our tough-talking workaholic who can't bypass a cute puppy without stopping for a good scratch and a photo shoot. We will sorely miss our true-blue patriot who so loves this country where a kid can grow up from working odd jobs to counseling Senators and statesmen and not lose an ounce of his character along the way.

Stew, we can't quite imagine a place without you, but we are so grateful for what you have made it while you were here.

Happy trails, buddy.

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RELATING TO A NATIONAL EMERGENCY DECLARED BY THE PRESIDENT ON FEBRUARY 15, 2019

The PRESIDING OFFICER. Under the previous order, the Committee on Armed Services is discharged from further consideration of H.J. Res. 46, and the Senate will proceed to its immediate consideration.

The clerk will report the joint resolution by title.

The bill clerk read as follows:

A joint resolution (H.J. Res. 46) relating to a national emergency declared by the President on February 15, 2019.

There being no objection, the committee was discharged, and the Senate proceeded to consider the joint resolution.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

TRIBUTE TO ''STEW''

Mr. SCHUMER. Madam President, I thank my colleague and friend from Tennessee for deferring.

First, on Donald Stewart, I know Leader MCCONNELL talked about him. Everyone is going to miss him here in the Senate. He was truly somebody whom everyone liked. He always had a great sense of humor and a big smile. He served his boss, MITCH MCCONNELL, extremely well, but he never let that get in the way of being friendly and working with the other side. He is somebody we will all miss. I enjoyed my interactions with him a great deal. I think that is probably true of just about every Member here.

We wish Stew the best and thank him for serving this body so long and so well.

H.J. RES. 46

Today, Madam President, the Senate will vote on the resolution to terminate the President's declaration of a national emergency. This is not a normal vote. What we are doing here today—this is not a normal day. It is not your typical vote on an appropriations or authorization bill. It doesn't concern a nomination or an appointment. This will be a vote about the very nature of our Constitution, the separation of powers, and how this government functions henceforth.

The Framers gave Congress the power of the purse in article I of the Constitution. It is probably our greatest power. Now the President is claiming that power for himself under a guise of an emergency declaration to get around a Congress that repeatedly would not authorize his demand for a border wall.

The President has not justified the emergency declaration. You would think in a moment like this, when there is not a war, when there is not an immediate disease, or when there is not a disaster—that is when we had other declarations. They don't need an elaboration, but this one would. But the President hasn't done that. He simply said he ''didn't need to do this.'' That is amazing, folks, my colleagues. The President said he didn't need to do this, and yet he is declaring an emergency. It is a direct contradiction of his own words.

Everyone here knows the truth. Democrats and Republicans know the sad truth. The President did not declare an emergency because there is one; he declared an emergency because he lost in Congress and wants to get around it. He is obsessed with showing strength. He couldn't just abandon his pursuit of the border wall, so he had to trample on the Constitution to continue his fight. That is not how this democracy is supposed to function. That is not how this democracy has functioned. I have never seen it, where, out of anger and out of a desire to win the fight regardless of the consequences, a President would do this.

The President has not laid out where he plans to divert funds from, though we know it is going to be from our military—from the men and women serving us and from the things they need.

Senators who vote against this resolution this afternoon may be voting to gut funding for a military installation in their State or for a cut to military pay and military pensions. How could they do that?

Most importantly, President Trump has shown zero understanding of what his emergency portends for the separation of powers in our democracy. The President seems to regard the government, not just the Justice Department, as his own personal tool to do whatever he wants, whether it is in the private sector or the public sector. We have never had a President like this.

We have had lots of Presidents with lots of foibles, but none of them seem to equate their own ego with the entire functioning of the government of the United States, except this one.

We can't succumb to that. It is our job here, in Congress, to limit executive overreach, to defend our core powers, to prevent a President—any President—from ignoring the will of Congress every time it fails to align with the will of the President. That is what the balance of powers is. That is what checks and balances is. That is what every one of us learned in second grade civics class.

All that teaching in the second grade civics class seems to be lost on so many of my Republican colleagues in blind obeisance to this President, no matter what the consequences.

This is not an issue of the wall. It goes way beyond that. We have had our fights and disputes on the wall for several years here. However you feel about our policy on the southern border and however you feel about the President, Senators should vote yes on the resolution to terminate the emergency declaration.

This resolution is about more than this President. It is about the Presidency now and on into the future.

It should not be difficult for any of my Republican colleagues to take this vote. Conservative principles would demand it, and some of the true conservatives, like Mr. LEE, yesterday, understood that logic. Conservatives have always feared an agglomeration of power in any branch of government, but particularly in the executive branch. The conservative movement has been designed to reduce the powers of the Federal Government. That is why they are for lowering taxes so much.

All of a sudden, again, because President Trump simply wants it, they say: Let's abandon those principles and vote to change, fundamentally, the way the balance of power works—shame.

If conservatism today is to mean anything, self-branded conservatives should vote to terminate the resolution. Deep-seated principles like that shouldn't take a back seat to the politics of the moment. They should not be abandoned just because the President shares the same party.

Now, let me speak from the heart to my Republican colleagues. I know that President Trump is extremely popular among Republicans for many reasons. I know he commands the vast majority of the Republican Party, and I know that the President never shies away from threatening, bullying, or publicly castigating members of his own party if they refuse to do what he wants.

So, I realize this. It is a much more difficult vote for my colleagues on the other side of the aisle to take than for those of us who are Democrats. I would say to them, and I would say to every Republican: There are times when loyalty to America, to our Constitution, to our principles, and to what has made this country great should lead Members to rise above and rise to the occasion.

I hope and I pray that this moment is one of those times when Members choose country over party and when Members rise above politics for the sake of fidelity to our constitutional principles and to this great United States of America.

In conclusion, on this issue, this is not an everyday moment. This is not just about going along with this President or that one. This is a red-letter day in the history of how the U.S. Government functions. The judgment of our Founding Fathers and the judgment of history weighs upon this vote.

TARIFFS

Madam President, the trade negotiations with China are moving forward, and I continue to have concerns that President Trump will accept a weak deal for the sake of a headline. Apparently, I am not alone. President Trump's former top economic adviser, Gary Cohn, told a podcast that the President is ''desperate'' to reach a trade deal. He also expressed deep skepticism that the administration would be able to stop the Chinese from stealing intellectual property and hold the Chinese accountable.

I hope Gary Cohn is wrong. The President, to his credit, was not desperate for a deal in North Korea and stood up to Kim Jong Un and looked strong for that. I hope he realizes that, as he negotiates with someone with even more consequences at stake for the long run of America—President Xi—and with a country that can do far more harm to our country, ultimately, in the long run.

Ambassador Lighthizer has said that there are still major issues left to be resolved. If that is the case, President Trump should not be pressing for a quick solution. The Chinese are more desperate for a solution than we are, although, obviously, some harm has been created to bring the Chinese to the table with tariffs.

The Chinese are desperate, and it is like they are ahead in the seventh inning, and then you say: I quit the ball game; I lose.

Don't do that, Mr. President. The tariffs you have imposed, at some political cost, have brought China to the table and given us the first opportunity in decades—in decades—to make the Chinese reform so they don't take total advantage of American workers and know-how. Soybean purchases and promises to import more American goods are not sufficient if we don't win concrete concessions on major issues.

If President Trump caves to China for the sake of soybean purchases, he would be trading America's future, literally, for a hill of beans. We want to help the soybean farmers. We want to help everybody else, but not at the expense of the future viability of jobs and wealth in America.

My message to President Trump is the same one I mentioned to him and I gave to him before he met with Kim Jong Un: Don't back down.

The President should be proud that he stood up to North Korea and walked away. He will be proud if he does the same with China, unless President Xi makes enduring, verifiable reforms of China's economic and trade policies, because the odds are high that if the President walks away from a weak deal, he will be able to get a much better deal down the road.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

H.J. RES. 46

Mr. ALEXANDER. Madam President, Tennesseans have asked me: Is there really a crisis on the southern border? Do you support President Trump's border wall?

And my answer to both questions is yes, I do.

I have urged the President to build the 234 miles of border wall that he asked for in his January 6 letter to the Senate and to do that in the fastest possible way, with a minimum delay and legal challenge, by using the $5.7 billion already approved by Congress.

But the President's emergency declaration to take an additional $3.6 billion that Congress has appropriated for military hospitals, for barracks, and for schools—including one in Fort Campbell—is inconsistent with the U.S. Constitution that I took an oath to support and to defend.

Never before has a President asked for funding, the Congress has not provided it, and then the President has used the National Emergencies Act of 1976 to spend the money anyway. The problem with this is that after a Revolutionary War against a King, our Nation's Founders gave to Congress—a Congress elected by the people—the power to approve all spending so that the President would not have too much power. This check on the executive is a source of our freedom.

In addition, this declaration is a dangerous precedent. Already, Democrat Presidential candidates are saying they would declare emergencies to tear down the existing border wall, to take away guns, to stop oil exports, to shut down offshore drilling, and for other leftwing enterprises—all without the approval of Congress.

I believe the crisis on our southern border is real. U.S. Customs and Border Patrol arrested more than 66,000 illegal aliens in February of 2019—the highest total in a single month since March 2009. In the last 2 years alone, U.S. Immigration and Customs Enforcement officers have arrested 266,000 illegal aliens in the United States with criminal records. Each week, approximately 300 Americans die from heroin overdoses, of which nearly 90 percent come across the southern border.

During the last 25 years, Congress approved and President Obama, President Clinton, President George W. Bush, and President George H. W. Bush built 654 miles of barrier along the 1,954-mile southern border. In 2013, the comprehensive immigration bill that received 68 Senate votes, including mine, included $40 billion for border security, including physical barrier, and enforcement. Last year, I voted with nearly

every Democrat for a bill that included $25 billion for border security, including physical barrier.

So one might ask: Why is President Trump the only President not allowed to build more wall on the southern border?

But in this case, as the Wall Street Journal said on March 12, ''The President doesn't need to invoke a national emergency to build his wall along the southern border.'' He has the money immediately available in other accounts already approved by Congress. Any appreciation for our structure of government means that no President should be able to use the National Emergencies Act to spend money that Congress refuses to provide.

The late Justice Antonin Scalia, who is revered by constitutional conservatives, put it this way for us. Justice Scalia said:

''Every tin horn dictator in the world today, every President for life has a Bill of Rights. That's not what makes us free. What has made us free is our Constitution. Think of the word ''constitution,'' it means structure. That's why America's framers debated not the Bill of Rights, but rather the structure of the federal government.''

Justice Scalia wrote:

The genius of the American constitutional system is the dispersal of power. Once power is centralized in one person, or one part of government, a Bill of Rights is just words on paper.

That was Justice Scalia.

I fault Democrats for not supporting President Trump's reasonable request for more wall on the border after 25 years of approving physical barriers and border wall for four other Presidents. That is not an excuse to ignore the constitutional separation of powers, especially when the faster way to build the 234 more miles of border wall that the President has asked for is to use $5.7 billion already approved by Congress.

I ask unanimous consent that the editorial from the Wall Street Journal dated March 12, 2019, be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 12, 2019]

TRUMP'S EMERGENCY EXIT

HOW HE CAN DECLARE VICTORY ON WALL MONEY WITHOUT LOSING A VOTE

(By The Editorial Board)

The Senate will vote on a resolution to override President Trump's emergency declaration as early as Thursday, and rarely has there been a clearer case of needless self-harm. Mr. Trump should listen to the Senate Republicans offering him a safe emergency exit.

On Tuesday Vice President Mike Pence met with several GOP Senators ahead of a vote on the override resolution that passed the House with ease. As many as 10 to 15 GOP Senators may vote to override.

Republican Senators up for re-election in tough states are in an impossible position. Susan Collins of Maine and Thom Tillis of North Carolina are both up in 2020, and they're voting to rebuke the President. Martha McSally has to fight for her seat in Arizona in 2020, and to win she'll need a coalition of Trump voters and the President's skeptics. No matter how she votes she isolates potential supporters. Ditto for Cory Gardner of Colorado.

And for what? The President doesn't need to invoke a national emergency to build his wall along the southern border. Sen. Lamar Alexander of Tennessee has pointed out that the White House already has funds at its disposal without declaring an emergency.

Consider: The President wants $5.7 billion for the wall. Congress provided $1.375 billion in appropriations. The President plans to tap $601 million from a forfeiture fund at the Treasury Department that can be used for general law enforcement purposes. Mr. Trump also plans to use $2.5 billion from Defense Department accounts that deal with drug smuggling, though Sen. Alexander notes that the law allows him to tap up to $4 billion.

In other words, if the President moved $3.7 from the Pentagon drug account, he'd reach his $5.7 billion goal without needing to pilfer $3.6 billion from military construction. The White House noted this in a fact sheet last month but declared an emergency anyway. The irony is that the President can't possibly spend all this money on wall construction before the fall's budget negotiations for fiscal 2020, when he can work on winning more funding.

Mr. Trump could rescind the order and say he'll spend the money available under the law first, and reconsider if facts warrant. This would keep the money out of the courts. The President would also be better positioned to win the 2020 defense spending he wants if he isn't raiding the military to pay for the wall. In his budget proposal this week, Mr. Trump asked Congress to backfill the money he is taking from military construction. House Democrats have no incentive to cooperate.

The alternative is a divisive vote that Mr. Trump is sure to lose and a bipartisan resolution he'll have to veto. And that's for starters. The National Emergencies Act allows a vote in Congress every six months until an emergency is terminated. Democrats have found a gift that will keep on giving.

Some Republicans are proposing fixes to the National Emergencies Act, which would be welcome. A proposal from Mike Lee of Utah would let the President declare an emergency as he can now, but after 30 days Congress would have to vote to continue it.

Republican Senators don't want a pointless showdown with Mr. Trump, but they can't avoid one if the White House won't change course. Mr. Trump should declare victory on wall funding for this year and live to fight next year.

Mr. ALEXANDER. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL. Thank you, Madam President, for the recognition. It is great to be joined on the floor by Senator COLLINS, who is going to speak after me to stand up for the Constitution, and I very much appreciate Senator LAMAR ALEXANDER's comments also. He is a real student of the Constitution, and I respect very much the conclusion he has come up with here today.

When each Senator is sworn into office, we take a fundamental pledge to support and defend the Constitution of the United States. That vow that we support the Constitution dates back to the very first Congress in 1789. Defending the Constitution is our first and foremost sacred duty.

The Founders built a system of checks and balances into our Constitution. They made sure that the three branches of government exercised their own separate powers, and they made sure that no one branch, no one person, could exercise too much power, especially over the use of taxpayer money. The Founders gave to Congress the power of the purse, one of our most fundamental powers. Article I, section 9 of the Constitution could not be more clear: ''No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.''

Congress holds the power to spend taxpayer money, not the President. It is our job to make sure that spending decisions have widespread public support and are not the product of an extreme minority, much less one man or one woman.

We all know that the President wants a wall. We just had a major debate about border security funding. The President shut down the government for 35 days because Congress refused his wall request.

Eventually he relented, but now he has declared an ''emergency'' to simply try and take the money that he couldn't get from the appropriations process. He said: ''I didn't need to do this.'' He flaunted the fact that this is not a real emergency.

The President is testing the limits of Executive power. The questions before the Senate today are these: Are we going to let this happen or are we going to open Pandora's box? What about article I of the Constitution? What about the 35-day government shutdown? What about Presidential budget requests? What about the Appropriations Committee? Are we really going to let a President raid taxpayer money after Congress denies the request?

The opposition to this power grab is bipartisan, as it should be. Among the American people the numbers are overwhelming. Almost 70 percent of the American people oppose the President's emergency declaration to raid taxpayer money for the wall. That is almost 70 percent.

My fellow Senators, it is time for the Senate to do its job. It is time for us to assert our authority over the purse. It is time for us to honor our oath of office. Every Senator should vote yes on the resolution to terminate the President's emergency declaration.

I want to thank my cosponsors in this effort. Earlier I mentioned Senator COLLINS, who is on the floor with me and will speak after me—Senator MURKOWSKI, Senator SHAHEEN. Again, I know that Senator COLLINS is on the floor to urge us to do the right thing, to stand up for Congress's authority.

This vote is historic. The Constitution's principle of separation of powers is at stake. If the Senate enables the President to hijack our power to appropriate, history will not remember us fondly.

This vote is not about the wisdom of building a wall along the border. This vote is not about party. This vote is about whether we will let any President trample on the Constitution, whether we will sit by and let the President take away our constitutional authority to appropriate.

I rise today, hopeful that my Republican colleagues will speak up. In addition to Senator COLLINS and Senator MURKOWSKI, Senator TILLIS stated firmly in a recent opinion piece:

> I support Trump's vision on border security. But I would vote against the emergency.

Why does he say he would vote against the emergency declaration? Because, he said, ''[a]s a U.S. Senator, I cannot justify providing the executive with more ways to bypass Congress.''

Former Governor Kasich authored an opinion piece recently titled ''It's time for Republicans in Congress to put country over party.'' He states:

> Let's be clear. This vote is not about the situation at the border; it's about an executive power grab and, above all, congressional respect for the democratic process.

I couldn't agree more with Governor Kasich.

Madam President, I ask unanimous consent to have printed in the RECORD the full pieces by Senator TILLIS and Governor Kasich.

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

[From the Washington Post, Feb. 25, 2019]

I SUPPORT TRUMP'S VISION ON BORDER SECURITY. BUT I WOULD VOTE AGAINST THE EMERGENCY

(By Thom Tillis)

Thom Tillis, a Republican, is a U.S. senator from North Carolina.

President Trump has few bigger allies than me when it comes to supporting his vision of 21st-century border security, encompassing a major investment in technology, personnel and infrastructure, including new physical barriers where they will be effective. It is a vision that will take many years and tens of billions of dollars to fully realize, and the president can count on me to help.

The president is rightfully frustrated with Congress's inaction regarding the humanitarian and security crisis at the nation's southern border. Even though Republicans and Democrats spent the past several decades in the halls of Congress and on the campaign trail promising the American people that they would work to secure U.S. borders, some of my colleagues seemingly made a politically calculated decision to block the president's good-faith efforts to finally get it done. They have regressed to the point where a Democratic presidential contender such as Sen. Kirsten Gillibrand (N.Y.) and a possible candidate, former congressman Beto O'Rourke of Texas, are even entertaining the possibility of tearing down existing physical barriers. Although Trump certainly has legitimate grievances over congressional Democrats' obstruction of border-security funding, his national emergency declaration on Feb. 15 was not the right answer.

From the perspective of the chief executive, I can understand why the president would assert his powers with the emergency declaration to implement his policy agenda. After all, nearly every president in the modern era has similarly pushed the boundaries of presidential power, many with the helping hand of Congress.

In fact, if I were the leader of the Constitution's Article II branch, I would probably declare an emergency and use all the tools at my disposal as well. But I am not. I am a member of the Senate, and I have grave concerns when our institution looks the other way at the expense of weakening Congress's power.

It is my responsibility to be a steward of the Article I branch, to preserve the separation of powers and to curb the kind of executive overreach that Congress has allowed to fester for the better part of the past century. I stood by that principle during the Obama administration, and I stand by it now.

Conservatives rightfully cried foul when President Barack Obama used executive action to completely bypass Congress and unilaterally provide deferred action to undocumented adults who had knowingly violated the nation's immigration laws. Some prominent Republicans went so far as to proclaim that Obama was acting more like an ''emperor'' or ''king'' than a president.

There is no intellectual honesty in now turning around and arguing that there's an imaginary asterisk attached to executive overreach—that it's acceptable for my party but not thy party.

Republicans need to realize that this will lead inevitably to regret when a Democrat once again controls the White House, cites the precedent set by Trump, and declares his or her own national emergency to advance a policy that couldn't gain congressional approval.

This isn't just conjecture. House Speaker Nancy Pelosi (D–Calif.) and other prominent Democratic elected officials have already hinted that emergency declarations will be part of the playbook for the left, with Pelosi musing, ''just think about what a president with different values can present to the American people.''

Conservatives should take these warnings seriously. They should be thinking about whether they would accept the prospect of a President Bernie Sanders declaring a national emergency to implement parts of the radical Green New Deal; a President Elizabeth Warren declaring a national emergency to shut down banks and take over the nation's financial institutions; or a President Cory Booker declaring a national emergency to restrict Second Amendment rights.

Those on the left and the right who are making Trump's emergency declaration a simple political litmus test of whether one supports or opposes the president and his policies are missing the mark. This is about the separation of powers and whether Congress will support or oppose a new precedent of executive power that will have major consequences.

As a U.S. senator, I cannot justify providing the executive with more ways to bypass Congress. As a conservative, I cannot endorse a precedent that I know future left-wing presidents will exploit to advance radical policies that will erode economic and individual freedoms.

These are the reasons I would vote in favor of the resolution disapproving of the president's national-emergency declaration, if and when it comes before the Senate.

[From CNN, Mar. 12, 2019]

JOHN KASICH: IT'S TIME FOR REPUBLICANS IN CONGRESS TO PUT COUNTRY OVER PARTY

(By John R. Kasich)

John R. Kasich is the former governor of Ohio, serving from 2011 to 2019. A Republican, he was previously a member of the House of Representatives. He is the author of ''Two Paths: America Divided or United.'' The opinions expressed in this commentary are his. View more opinion articles on CNN.

During my 18 years as a member of Congress—not so long ago—my colleagues and I didn't robotically toe the line with the President. Republicans didn't vote in lockstep with Republican presidents, not even Ronald Reagan. And Democrats departed from their party's president when they thought it was the right thing to do. We took party loyalty seriously, but we gave even greater weight to principle.

In recent decades, of course, partisanship in the House and Senate has become far more intense, and the nation is worse as a result. But even now, in this hyper-partisan era, there comes a time when our elected leaders must put country over party.

One such moment: the ongoing debate over President Donald Trump's national emergency declaration to fund construction of a wall on the US-Mexico border. Sometime soon, Republican senators will have the opportunity to demonstrate—as 13 Republicans did in the House—their love of country and their commitment to constitutional values by voting for the resolution to disapprove the President's emergency declaration. Instead of acting like they're afraid of their own shadows, Senate Republicans must use this vote to—at long last—stand up and defend the Constitution.

THE REAL NATIONAL EMERGENCY IS NOT AT THE BORDER

Let's be clear. This vote is not about the situation at the border; it's about an executive power grab and, above all, congressional respect for the democratic process. Whatever their views on the border situation—which I agree is serious—Republicans should oppose the President's declaration. Standing against the President on this issue is important not just for today, but for our future.

For years, Republicans decried executive overreach by President Barack Obama. If we are serious about our constitutional values, we can't complain only about actions by the other party. We have to apply consistent principles whenever we have a president from our own party as well.

We should be especially concerned about President Trump's effort to circumvent Congress simply by invoking the magic word ''emergency.'' If presidents can do end runs around Congress merely by claiming ''emergency,'' then there's almost no limit to executive authority. This would create a gravely dangerous situation, not only for this president but for all future presidents as well.

Legal scholars are debating what the word ''emergency'' means as it's used in the National Emergencies Act, and the courts will resolve that question if Congress fails to override an expected presidential veto of their resolution of disapproval. But there's no real doubt about what the word is supposed to mean. A president's emergency powers are intended to be used for addressing sudden or unexpected events, not just serious problems. Indeed, the National Emergencies Act, passed in 1976, aimed to curtail—not expand—presidential discretion to declare emergencies.

What's also clear is how emergency declarations should be used: To address problems in ways for which there is not only a general consensus, but also where the pressing nature of the challenge requires speedy action without the formal and oftentimes slow process of congressional action. Nothing about the current situation matches up to that standard.

President Trump's emergency declaration for border wall funding is almost the antithesis of that model. The problems at our border may indeed be severe, but they are chronic. Even more significantly, there is

not a consensus to pursue the President's approach. To the contrary, Republicans and Democrats in Congress did negotiate a compromise—and the President signed it into law. But then he proceeded to turn his back on the negotiation, the process and the agreement by declaring a national emergency.

That kind of unilateralism not only conflicts with our Constitution, it amplifies the worst of our present-day politics. President Trump is playing to his base, focused on politics not policy. The result of his approach is more bitterness and alienation, less trust between parties and a continued loss of public confidence in our government. It leaves both parties—our government—far less able to do the things the American people need and desire. I am proud to have joined with three dozen former Republican members of Congress to urge those Republicans currently serving there to stand for our values and by standing up to the President against his emergency declaration. President Trump remains popular within our party, but so is a deeply ingrained commitment to constitutional conservativism. Opposing your party's president is never easy, but I am hopeful that Republicans will vote to uphold the constitutional principles I know they hold dear.

Mr. UDALL. Madam President, to get this wall money, the President caused the longest government shutdown in our Nation. The shutdown caused hardship for millions of Federal employees and lasting pain for thousands of Federal contractors, not to mention the millions of Americans who were denied services for 35 days—services they paid for with their tax dollars.

I visited with New Mexicans hurt by the shutdown and it was very, very painful to hear their stories.

In the end, Congress decided on a bipartisan basis not to spend the $5.7 billion the President demanded for his wall. He got $1.3 billion. I didn't want to see that much, and I wanted to see more restrictions as to specifically what it was going to be spent for, but it was a hard-fought compromise, and a deal is a deal.

Congress's determination should have ended the debate for this fiscal year, the year that we are in.

Now the President is asking Congress for $8.6 billion for the border wall next year. That is his prerogative, but make no mistake, it is not only Congress's prerogative, it is Congress's constitutional responsibility to decide if he gets that money. As the old saying goes, the President proposes and Congress disposes. President Trump is being treated no differently than all previous Presidents. That is how our constitutional system works—or at least how it is supposed to work.

The President's emergency declaration is an end run around Congress, plain and simple. If any Democratic President issued an emergency declaration like this, say for climate change or gun safety funding, Republicans in this body would scream bloody murder and vote to disapprove.

I am on record that climate change is one of the most pressing issues on our planet, and I am on record that gun violence is a national crisis. I have voted for and proposed actual legislation on these topics, as our system is supposed to work. No previous President has used the National Emergency Act to bypass the appropriations process like this. Our Constitution, the rule of law, separation of powers—all of these rise far above the day-to-day controversies like the President's border wall.

On a practical note, the President wants to take real money away from real military construction projects, which will have a real impact on national security. These military construction projects have been vetted through years of scrutiny, through the military, through numerous congressional committees in Congress, and they are projects deemed essential to national security—projects all across the Nation, in our States, that are now at risk.

We have a long list of military construction projects by the President. Yet he has not bothered to tell us which projects would be cut to build his wall. Will he raid $793 million to rebuild Camp Lejeune, NC, after the devastation from Hurricane Florence?

Will he steal up to $800 million for Navy ship maintenance to make sure that accidents like what happened to the USS *McCain* and USS *Fitzgerald* never happen again?

Will he raid $125 million from my State of New Mexico for Holloman Air Force Base to develop unmanned aerial vehicles to track terrorists and for White Sands Missile Range to build a badly needed information systems facility?

The answer is that we don't know, but these critical projects in all of our States are at risk.

We each need to think about our States and the people we were sent here to represent. I am from one of the four States that border Mexico, one of the four States that would be the most directly impacted by any border wall, and I am here to state there is no national security emergency along my State's border with Mexico. What is happening at our border does not justify the use of this authority.

New Mexico's border communities are flourishing with economic, cultural, and educational activity. Border communities are as safe as or safer than others in the interior.

This is not a partisan view along the border. Republican WILLIAM HURD represents more than 500 miles of the Texas border with Mexico. He not only believes the President's emergency declaration is unconstitutional, but he also thinks the President's wall is ''the most expensive and least effective way to do border security.''

Again, whether you support or oppose the border wall is not an issue. What is at issue is our oath to support and defend the Constitution, whether any President can toss Congress aside and raid critical funds at will.

We have an opportunity to stand up to an unconstitutional power grab. I urge everyone in this Chamber to seize that opportunity.

With this, I yield to Senator COLLINS, who, from the beginning, has worked with me as we have our resolution in, and we are working hard to make sure that we stand up for the Constitution.

I yield the floor.

The PRESIDING OFFICER (Mr. SCOTT of Florida). The Senator from Maine.

Ms. COLLINS. Thank you.

Mr. President, later today, the Senate will make a significant decision with implications for our constitutional system of government.

We will vote on a resolution to reverse the President's ill-advised national emergency declaration that funds the construction of a border wall using money that Congress has appropriated and the President has signed into law for other purposes, such as military construction.

I want to thank Senator UDALL, the Senator from New Mexico, for working together with me. We introduced a companion resolution to overturn the President's declaration, and I commend Senator UDALL for his leadership.

By declaring a national emergency, the President's action comes into direct conflict with Congress's authority to determine the appropriation of funds, a power vested in Congress by the Framers of our Constitution in article I, section 9. That is why this issue is not about strengthening our border security, a goal that I support and have voted to advance. Rather, it is a solemn occasion involving whether this body will stand up for its institutional prerogatives and will support the separation of powers enshrined in our Constitution.

Throughout our history the courts have consistently held that ''only Congress is empowered by the Constitution to adopt laws directing monies to be spent from the U.S. treasury.''

For the past 65 years, the courts have determined the boundary of Presidential authority vis-a-vis Congress under the doctrine of Youngstown Sheet & Tube, the 1952 Supreme Court case that reversed President Truman's seizure of U.S. steel companies during the Korean war.

As Justice Robert Jackson explained in his profoundly influential concurrence in that case, the question of whether a President's actions are constitutionally valid should be determined by examining the source of the President's authority. In this concurrence, the Justice goes through three scenarios in which he assesses the President's power.

According to Justice Jackson, when acts taken by the President are against the express or implied will of Congress, the President's power is at its lowest ebb. President Trump's declaration clearly falls in that category.

The President rests his declaration on the National Emergencies Act, and that act fails to define precisely what constitutes an emergency. There is a commonsense rule we can apply. It is a five-part test that was used by the Office of Management and Budget under

former President George Herbert Walker Bush to determine whether requested funding merited an emergency designation under our budget rules. Under that test, a spending request was designated as an emergency only if the need for spending met a five-part test. It had to be necessary, sudden, urgent, unforeseen, and not permanent.

Whether one agrees with President Trump that more should be done to secure our southern border—and I do agree with him on that goal—his decision to fund a border wall through a national emergency declaration would never pass all of this five-part test.

Another concern I have with the President's declaration is, it shifts funding away from critical military construction projects. We don't know which ones. We have not been able to get a list, but this could have very real national security implications. Again, I would note that the Military Construction appropriations bill incorporated projects recommended by the President and his Department of Defense, was passed by both bodies, and signed into law by the President.

Let me emphasize, once again, that the question presented by this resolution is not whether you are for a border wall or against a border wall; it is not whether you believe that border security should be strengthened or whether it is sufficient; it is not whether we support or oppose President Trump; rather, the question is a far more fundamental and significant one. The question is this: Do we want the executive branch, now or in the future, to hold the power of the purse, a power the Framers deliberately entrusted to Congress?

We must stand up and defend Congress's institutional powers as the Framers intended we would, even when doing so is inconvenient or goes against the outcome we might prefer.

I urge my colleagues to support the rulings of disapproval and our Constitution.

Thank you.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this is a debate worth happening. I appreciate the comments from my New England neighbor. It is an important matter for us to consider.

President Trump declared a national emergency, citing a ''crisis'' at the southern border, but it has become more and more evident he did it for one reason, to do an end run around Congress and the Appropriations Committee, and use taxpayer money to build a wall on the southern border that Congress has refused to fund.

For 3 years, he failed to convince Congress—a Republican-controlled Senate and a Republican-controlled House—that his wall was a good idea. For 3 years, he requested that Congress fund his cynical campaign promise to build a ''big beautiful'' wall on the southern border, and for 3 years, the Republican-controlled Congress refused. Even when his own party controlled both Chambers of Congress, he could not convince enough Members that it was a good idea. Certainly, nobody accepted his pledge that Mexico would pay for the wall. We all knew the U.S. taxpayers would have to pay for it.

So instead of accepting that we are in a democracy, and he is not a monarch, instead of accepting that we are in a democracy and there are two other coequal branches of government that could constrain his actions, the President has decided to ignore the Constitution and the will of Congress and go it alone. Actually, Congress alone has the power of the purse. Congress having exclusive power over our government spending priorities is one of the most critical checks and balances in our constitutional system.

Anybody who goes back and reads the history of the founding of this country knows that the reason we are the oldest existing democracy currently in the world, is that we believed in checks and balances.

The President, of course, could propose funding for whatever projects he wants, but it is the job of Congress to decide where to invest the American people's hard-earned tax dollars. In a democracy, every President from George Washington to now is supposed to respect those decisions. After not getting what he wanted, this President has invoked the National Emergencies Act. He is stretching the powers given to him in that act beyond all recognition. He has declared a national emergency on the southern border.

We are not responding to a national emergency. There is no crisis on our southern border requiring such extreme action. What kind of national emergency is declared only after you lose a 3-year funding fight with Members of your own party? What kind of national emergency is resolved by a vaguely defined, multiyear construction project? The truth is clear. He is trying to use this authority as a means to a political end.

When Congress enacted the National Emergencies Act in 1976, it conveyed certain powers to the President to use in the event of a true emergency that required quick action. I remember. I was here during the debate. There was a Republican President. It assumed that whoever sat in the Oval Office would have enough respect for the office and the power being conveyed not to abuse it. Those of us in the Senate, at that time, felt that whether it was a Republican or Democratic President, they would not abuse the power. President Trump has failed that test.

Presidential emergency powers should only be invoked in a true time of crisis. It is an abuse of power to invoke these authorities just because he couldn't do what he wanted in any other way. We are now seeing what he would do if he had these powers.

The President wants to raid money meant for military housing and military base improvements to pay for his wall. This comes almost in the same week we see in the news that so much of military housing is infested by mold, by rats, by asbestos, and by all these other problems. Is he going to take the money that would make this housing safe for the men and women in our military to pay for his wall? Is he going to take money from Camp Lejeune that was hit by Hurricane Florence and badly damaged? I know Camp Lejeune. When my son was in the Marines, he spent time there. Is he going to take money from Tyndall Air Force base, which was flattened by Hurricane Michael? What about money for schools for military families, like the school at Fort Campbell, KY, or a child development center at Joint Base Andrews in Maryland? What about essential training facilities that would ensure military readiness, like a special operations training facility at Fort Bragg, NC—which I have visited. Congress chose to fund these projects over an ineffective, wasteful wall. Congress had to say, where does the money go? We felt these things to help our military and military families made far more sense than the wall. Congress used its constitutional power—let me emphasize that—Congress used its constitutional power of the purse to set priorities for how to invest the American people's hard-earned tax dollars.

The President is trying to label opponents of his action as weak on border security or weak on crime. That is nonsense. I don't know any Member of the Senate, of either party, who doesn't believe in border security or is in favor of crime.

Let's see what he asked for. Instead of border security, he wanted $5.7 billion for the wall. Congress approved a border security package—money for fencing along with technology added between the ports of entry, and additional personnel. That is real border security, not a political stunt. Now the President is saying: Thank you for your views; thank you for following your constitutional power, but I am still going to do it my way. Where is he going to stop?

The fact that it is a political game was shown when this Congress passed, overwhelmingly, $1.6 billion for border security. The President threatened to veto that. Then after closing the government for 35 days—costing the taxpayers billions and billions of dollars for nothing—he signed the bill that did not give him the $1.6 billion that he threatened to veto but that gave him $1.3 billion, and that he signed. If anybody thinks this is just playing games, that states it.

Over the past 2 years, we have seen the erosion of our institutional checks and balances in the face of creeping authoritarianism. The time has come for Congress and Members of the President's own party to take a stand. Congress simply cannot afford to remain silent in the face of such an unprecedented violation of the separation of powers.

I understand Senator LEE has introduced a bill to reform the National Emergencies Act. I appreciate the thought he has put into this issue. I am certainly going to review his legislation with an open mind, but make no mistake, legislation to fix future abuses of this law does not address the abuses we have that are happening right now. His bill does not address the fact that this President is trying to do an end run around Congress—an end run around Democrats and Republicans alike—and is cynically using an emergency declaration to fund a request on which we had voted but of which we did not approve. We must send a message to the President that this is unacceptable. This is not something we never voted on. We have voted on this matter, and under the Constitution, that is what is supposed to carry the day.

I hope my Republican friends will take a moment to take stock of where we are. President Trump is going to be but a moment in our Nation's history. The Constitution controls our history no matter who is President. For the sake of appeasing a man who made a foolish campaign promise that was never grounded in reality, will they not stand up for the institution in which they serve? For the sake of appeasing a President who detests any limits or checks on his authority, will they forever diminish the role of Congress as a coequal branch of government?

Now is the time for country over party. I will vote aye on the joint resolution of disapproval, and I urge all Senators to do the same.

I do not see any Senator who seeks the floor.

Mr. President, is this under controlled time?

The PRESIDING OFFICER. The time is controlled equally between the proponents and opponents.

Mr. LEAHY. Mr. President, I ask unanimous consent that the time consumed by the quorum be equally divided between both sides.

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

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COTTON. Mr. President, the Senate will soon vote on the President's declaration of a national emergency. We have reached a moment of crisis, but it is not a constitutional crisis; it is a crisis on the border, a crisis of American sovereignty. When hundreds of thousands of foreigners arrive at the southern border and demand entry, that is not migration; that is an emergency and a threat to our sovereignty. The stories speak for themselves.

Last Thursday, an American citizen named Rocio Alderete was shot to death on a bridge over the Mexican border near McAllen, TX. Early reports suggest Rocio was caught in a shootout between cartel gunmen and the Mexican police, but whatever the case turns out to be, Rocio has perished—the latest American victim of lawlessness at our southern border.

Since last October, Border Patrol agents have apprehended more than 260,000 illegal aliens at the border, which is a surge of 90 percent—almost double from the previous year. For the most part, these aren't young men who are coming for work, as has been so often the case in the past; rather, they are Central Americans who are gaming our generous asylum laws. Instead of running away from the Border Patrol, these illegal aliens run to it so they can be captured and released into the country, with notice to appear in court, which they hardly ever do. Thanks to stupid laws and activist judges, illegal aliens are even using little kids as legal force fields because being detained with minors increases their odds of being held in America rather than to be turned around and sent home.

As a result, we see all of the horrors of the human smuggling trade at the border today. Women and girls are sexually assaulted at horrific rates. Hundreds die in the desert each year of thirst and exhaustion. Infectious diseases we had all but eradicated with vaccines are appearing again in border communities. ICE health officials have found 236 confirmed or probable cases of mumps among detainees in the past year after having reported zero cases for the previous 2 years.

This surge of illegal aliens is swamping law enforcement's ability to do its job. ''Overwhelmed'' is the word we hear so often from agents. Border Patrol Commissioner Kevin McAleenan says: ''This is clearly both a border security and humanitarian crisis.''

The consequences of this crisis stretch far beyond the border. Sometimes it stretches thousands of miles away. An American—1 of 192 every day—dies of a drug overdose. The poison in his veins flows across the Mexican border. A brave police officer and father, Corporal Ronil Singh, of California, was shot dead the day after Christmas after his killer snuck into the country illegally. We have failed to protect our border, as any sovereign nation must, and our people are dying because of it.

The President has declared a national emergency because of this crisis. Yet the administration's sensible, long overdue efforts to secure the border have been met only by howls of outrage from the Democratic Party and its media wing. Judging from their reaction, you would think the real emergency was not our lawless border but any genuine effort to secure it. The minority leader called the President's emergency declaration a ''lawless act'' that showed ''naked contempt for the rule of law.'' Other members of the self-styled resistance have compared the President to Hitler.

These are curious, overheated claims, I have to say. To be lawless, after all, one must act outside the law. Yet the President's critics don't even bother making that case, probably because they don't have much of one to make.

The President isn't purporting to invoke his inherent Executive powers under article II of our Constitution. He does not even claim to defend his constitutional prerogatives from legislative encroachment. On the contrary, he is only exercising the statutory authority that has been delegated to him by us, by this very body—the U.S. Congress. More than half of the $8.1 billion the President is using to build the wall and secure the border comes from nonemergency statutes that have been passed by Congress. The remainder comes from an explicit delegation of various powers to the President in the event of a national emergency, just like the one the President has declared, which we also delegated him the authority to do. I should add, the National Emergencies Act passed nearly unanimously, with only five ''no'' votes in the House.

I am sympathetic to arguments that the National Emergencies Act is too broad and gives the executive branch too much power. That is a reasonable debate to have. Believe me, Congress has ceded too much power to the Executive for more than a century and has expanded an administrative state that increasingly deprives our people of having a meaningful say in their government, so I invite my Democratic colleagues to reconsider the wisdom of this path.

Maybe we can also reform the EPA. Perhaps we can require up-or-down votes in Congress in order to approve big regulations so politicians around here can show some accountability for once. I am ready to have those debates. Believe me, I am ready. In the meantime, don't pretend we didn't delegate all of these powers or that it is lawless for the Executive to use the laws we have passed just because you deplore him.

If you want to see lawless Executive action, by the way, you can look, instead, to the last administration. President Obama purportedly gave millions of illegal aliens legal status and work permits, which was in clear violation of statutes that had been passed by this Congress. He also expressly defied our ban on bailout payments from the ObamaCare slush fund to big health insurance companies. It is strange how I don't recall the self-styled resistance manning the ramparts and rushing to the Ninth Circuit back then. In fact, I only recall a lot of congressional fanboys of the President's using the pen and phone to encroach on our constitutional prerogatives.

I have also heard from some Senators who admit the President is acting lawfully but who worry about the slippery slope of Executive power. I respect this

view. Our system of separated powers calls on each branch to jealously protect its own powers, but one can ski to the bottom of a slippery slope pretty fast. A Republican declares a national emergency today on the border. A Democrat—or who knows these days, maybe a socialist—will tomorrow declare a gun violence emergency to confiscate guns or will declare a climate change emergency to shut down coal-fired powerplants.

I acknowledge it doesn't take much to imagine such abuses by a future liberal President, especially with the gang they have running today, but that is precisely what such actions would be—abuses. What the law says matters here. We have delegated to the Executive the power to enforce the Nation's immigration laws, including by an emergency declaration. We have not delegated to the Executive the power to confiscate guns, to close powerplants or any of the other common entrants in the parade of horribles on the slippery slope. That is the difference between lawful and lawless government, and that is the case here.

Still, others claim the crisis on the border isn't bad enough to call a national emergency. Some have gone so far as to deride it as a fake emergency. If killings, caravans, and cartels at the border are fake emergencies, I would really hate to see a genuine emergency.

Let's suppose we take their claim seriously. We at least ought to compare the crisis at the border to past national emergencies to see how they all stack up. Right now, there are 32 national emergencies in effect—32 national emergencies. Among them is a national emergency related to election fraud in Belarus. Another is in response to the breakdown of the rule of law in Lebanon. A third is in response to a failed coup in Burundi.

I don't deny that those are all genuine problems or that an American response may well be warranted—far from it. Yet I doubt many Americans would put them ahead of a serial violation of our sovereign border by millions of foreigners. If the Belarusians warrant an emergency declaration, then surely Americans do, too, when we face a crisis at our southern border.

The Democrats used to take border security seriously, but in elite society these days, ''border security'' are bad words, and ''wall'' is practically a four-letter word unless they are the walls that protect the rich and the powerful and the politically connected from a dangerous world. Look in the news. The Democrats' newest Presidential aspirant, Robert Francis O'Rourke—a former Congressman and failed Senate candidate—has gone so far as to suggest the tearing down of existing barriers at the southern border, which I am sure has thrilled all of the good people in El Paso who don't live in a world of private planes and security details.

Regrettably, the Democrats' hostility to border security couldn't come at a worse time for our country because there is, indeed, a crisis at the border, and we ought to be addressing it.

We could be spending this valuable legislative time tightening up our asylum laws or cracking down on employers who exploit illegal aliens instead of hiring American workers or ramping up drug enforcement. Instead, we are debating whether a crisis at our southern border can be called an emergency. Instead of solving a problem, we are trying to spin it.

So I have a simple suggestion for my colleagues: If you are genuinely alarmed by the President's invocation of the very emergency powers we delegated to him, instead of furrowing your brows and tugging your chins and gravely citing Youngstown Sheet, let's tackle this emergency declaration by making it unnecessary. Let's get to the root of the problem and secure our border once and for all. No more border crisis, no more emergency—it is as simple as that.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRESCRIPTION DRUG COSTS

Mr. DURBIN. Mr. President, last month, I launched a new series of floor speeches to recognize what is going on with prescription drug pricing across America.

When you ask the American people about the economic things that are on their minds, it is No. 1—the cost of prescription drugs. No. 2 is, have I saved enough money for my retirement? It really gets to the heart of the concerns families have every day. Each one of us knows that the cost of prescription drugs is going up, and we also realize how vulnerable we may be as individuals if one of those drugs is a matter of life and death.

I came to the floor 2 weeks ago to talk about the cost of insulin. Seven and a half million diabetics across America have seen dramatic increases in the cost of insulin—increases that can't be justified because the same American companies selling the same drugs in Canada do it for a fraction of the cost. Americans pay outrageous prices.

Humalog, which is one of the most popular forms of insulin, costs $329 a dosage in the United States. Twenty years ago, it was about $29. It has gone up in price 35 times in that 20-year period of time. How much does the exact same drug that costs $329 in the United States cost in Canada? It is made by the same company. Thirty-eight dollars. You look at that and you think there is something wrong here. The pharmaceutical industry is not focusing on giving American consumers a break.

What I want to talk about today goes to an issue that is hard to believe but true. A few years ago, the New York Times reported that nearly $3 billion worth of drugs was wasted each year. These are not ordinary drugs; these are cancer drugs used in chemotherapy. Medicare, Medicaid, and private health insurers spend billions of dollars on medications. Many of them are literally thrown in the trash. How could that possibly be?

You see, for many of the most expensive drugs, like new cancer treatments, the pharmaceutical industry produces them in a one-size-fits-all container, a single-use vial that a physician has to draw from to give a treatment to a patient. The dosage for the patient in the cancer therapy is based on the patient's size and weight. The problem is that the pharmaceutical industry insists on selling these drugs in excessively large vials that contain dramatically more medicine than the average patient would need, so doctors administer the proper dosage and throw away the rest.

Here is a graphic to illustrate what I am talking about. Here is why we are wasting billions of dollars each year on cancer drugs. One size does not fit all.

This drug, Velcade—the vial size available is 3.5 milligrams. The patient dose is 2.2. The amount that is left over is 1.3. Oh, you are going to recycle that? You can't do it. That is the end of it, and it is thrown away. In 2016, $300 million was wasted in this way.

This vial, the first one here that is produced, is a vial that would apply to a person who is 6 feet 6 inches tall and weighs 250 pounds, which means our linebacker Khalil Mack on the Chicago Bears—God forbid he would ever need it—that would be his dosage size. Most people are not as big as Chicago linebackers.

Why is Pharma sending us one vial, take it or leave it? Because they make money. They make money when we buy it and have to throw it away.

Takeda Pharmaceutical sells this drug for those who are suffering from multiple myeloma and lymphoma. As I mentioned, it is for a person who is 6 feet 6 inches and weighs 250 pounds. Takeda made $310 million in the year 2016 off of unused Velcade that got thrown in the trash—$310 million.

What makes this even more appalling is that the pharmaceutical industry titans actually sell the same drug in smaller containers in other countries but not in the United States. Here, we are forced to buy the largest container and throw away the difference.

This chart shows that the same company—Takeda—that makes Velcade sells this drug not in 3.5-milligram vials, as in the United States, but, in Europe, in 1-milligram vials. It seems like a simple thing, doesn't it, that you would dispense this drug in a manner so that it is not wasted? Sadly, wasting and throwing away the drug is part of their marketing strategy.

Another Japanese company, Eisai, sells its chemotherapy drug Halaven only in 1-milligram vials in the United States but sells smaller vials—0.88 milligram—in Europe.

Merck's immunotherapy drug KEYTRUDA, which is truly a breakthrough, an amazing drug—research was done by taxpayers at the National Institutes of Health, which led to the development of this drug—they sell this drug, KEYTRUDA, only in 100-milligram vials in the United States but in 50-milligram vials in Europe. In 2016, Merck made $200 million on KEYTRUDA—this lifesaving drug—that was thrown away.

In 2016, I asked the inspector general of Health and Human Services about this waste of taxpayers' money. The inspector general uncovered that Medicare spent $195 million in just 1 year on 20 identified drugs for medication that was thrown away. That year, Takeda received $47 million in taxpayer funding for amounts of Velcade thrown in the trash. It wasn't alone. Genentech's Rituxan, one of the most common cancer medications, only comes in vials that are 100 milligrams or 500 milligrams. In 2013, Medicare wasted $10 million on Rituxan that was thrown away.

It is for this reason that I am presenting my second Pharma Fleece Award to Takeda, Eisai, Merck, and Genentech. Patients in America should not face higher drug costs because these Pharma fleecers choose to sell their expensive cancer drugs in excessively large drug vials that are necessarily going to be wasted.

Two weeks ago, I teamed up with Republican Senator ROB PORTMAN of Ohio to introduce the REFUND Act—a simple bill that Senator PORTMAN and I have introduced, and I hope others will join us. It says that taxpayers will only pay for the drug that is given to a patient, not for the part that is thrown away. Medicare already tracks how much of this medication is being discarded, so the REFUND Act simply requires Medicare to determine how much was wasted and to recoup the money from the drug companies. We then provide a portion of that money back to seniors for the 20-percent coinsurance they have to pay for the drugs.

An important point: When Medicare is paying for these drugs, and a lot are being thrown away, the seniors are still paying their 20 percent, even for the drug portion that is being thrown away. So ROB PORTMAN's bill—the one I have introduced with him—says that the money recouped from the drug companies will go back to the benefit of these seniors. Under our new bill, this pharma fleecing for drug vial waste will soon come to an end so that not just the patients but our government will save money.

Remember the bottom line. When you ask the major health insurers today: What is driving the cost of health insurance premiums, they say: Senator, prescription drug pricing is No. 1.

Blue Cross Blue Shield, based out of Chicago, when I sit down with them, say: We spend more money on prescription drugs than we do on inpatient hospital care.

To give you an idea, it is out of sight. You can't turn on a television set, particularly if you are over the age of 50, without being bombarded with all these drug ads, right? You have heard them over and over again.

The No. 1 drug being sold on television today is HUMIRA. What is it for? psoriatic arthritis. It is serious. If you have that arthritis, that may be a lifesaver for you, but it is now being sold for that little red patch on your elbow called psoriasis. Interesting. Do you know how much HUMIRA costs each month? Five thousand dollars.

I have legislation that would require these drug companies to advertise the cost of their drugs on television. They tell us everything else; don't they? They tell us, if you are allergic to HUMIRA, don't take HUMIRA. I have never understood that warning. They tell us everything under the Sun, but they never mention the price. So what I want to do is get the price out in front of the public, and let them know what being perfect in a swimsuit is going to cost you per month.

From my point of view, there are people who need these drugs desperately, and we ought to try to get the prices within their reach. For those who are overusing and abusing the airwaves of America to advertise drugs—to try to push doctors into writing the scripts even when it is not necessary—we have to come to grips with this. If we don't, we are not going to have a serious effort to reduce the cost of health insurance and the healthcare costs that face our Nation.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

H.J. RES. 46

Mr. BENNET. Mr. President, I want to congratulate the Presiding Officer on being in the Senate and presiding over the Senate.

I come to the floor to remind us how we got here. President Trump told us over and over and over again during his campaign that Mexico would pay for the wall. He said it at the beginning of the campaign. He said it in the middle of the campaign. He said it at the end of the campaign.

He made that promise over and over again. The U.S. Congress didn't make that promise. There is no way for Congress to force Mexico to pay for the wall. We cannot force Mexico to pay for the wall. It is not Congress's fault. It is the President's fault, and it is his promise he has broken.

Instead of going to Mexico to get them to pay for the wall, as he said he would do over and over again, he has now asked Congress to pay for it. He has now asked the American taxpayer to fulfill his broken promise.

By the way, that is after 2 years of having a Republican majority in the Senate and a Republican majority in the House who said: We don't want to build your wall. We are not going to help you keep your promise. In fact, you promised Mexico would pay for the wall. Go get Mexico to pay for the wall is what the Republican Senate and the Republican House said.

So he was frustrated. He said how frustrated he was. He went out to the American people during the 2018 election, and the people rewarded him by electing Democrats to be the majority in the House of Representatives.

Then, last December, those Democrats offered the President $1.3 billion for border security. It wasn't for his medieval wall. It is for what he now calls steel slats.

Instead of accepting that fact—the fact that nobody here wants to fund the wall he said Mexico would pay for—he shut down the government for 35 days. Then, after all the misery he inflicted, after the billions of dollars he cost our economy, to say nothing of what he did to the Federal workers, he basically got exactly the same deal as he got before he shut down the government, making the shutdown pointless, making the billions of dollars of lost wages and economic activity in America pointless, all a casualty of his inability to keep his promise that Mexico would pay for the wall and his inability to get Republican majorities in the House and the Senate to build his wall.

So having failed to get Mexico to pay for the wall, having failed to get a Republican Congress to pay for the wall, he now says he is going to declare a national emergency to pay for the wall.

We should ask ourselves—we must ask ourselves—whether this is an appropriate use of emergency power. By the way, if it was an appropriate use of emergency power, why didn't he just declare an emergency before he shut the government down for 35 days? Why cost the economy billions and billions of dollars if you can just do this by declaring an emergency? The easy answer for that is that it is not an emergency.

He is only doing this now because he lost the negotiation. He lost his leverage. He embarrassed himself by having the longest shutdown in American history.

This is not a national emergency. This is just plan B. The President has admitted as much as he was signing the declaration itself—the declaration of emergency. He said:

> I didn't need to do this, but I'd rather do it much faster. . . . I just want to get it done faster, that's all.

It is not an emergency. He just wants to get it done faster, which is astonishing coming from a guy who has not spent the money that Congress has already appropriated for the wall. He

hasn't even spent that money, and now he is saying he wants to go faster, and he has to declare a national emergency to do it.

By the way, America, you may have noticed that the President is also now saying that ''much of the wall has already been fully renovated or built.'' ''Much of the wall has already been fully renovated or built.'' That is what your President is saying to you at the exact same time he is saying that he needs a national emergency to build the wall. It is preposterous. It is a joke.

On top of everything else, he is not telling the truth about that. He has not built a mile of this wall since he has been President of the United States, even though Congress has appropriated more than $1 billion—I think about $1.7 billion—to do it.

When he signed the emergency declaration, he said that national emergencies have ''been signed many times before. It's been signed by other presidents from 1977 or so; it gave the presidents the power.''

''There's rarely been a problem'' the President said. ''They sign it. Nobody cares.'' That is what he said.

Nobody cared because those were real emergencies, not fake emergencies. They weren't emergencies being declared by Presidents who had promised that Mexico would do something, and then it didn't happen, and now they had to declare an emergency. They certainly were not cases where the President came to the Congress, including a Congress of their own party, and said, I want to do something, and they said no. Then, they said: Well, we are going to declare an emergency.

That has never happened before in American history.

By the way, if we go down this road, this will not be the last time this happens. This will happen time and again, which is why every Member of the Senate should vote for this measure of disapproval.

Since 1976, when Congress passed the National Emergencies Act, Presidents have declared national emergencies 58 times. Fifty-three of those times have been to do things like block the sale of weapons to foreign countries or to sanction governments, like Iran and North Korea. The four remaining cases were after two U.S. planes were shot down by Cuba, after we invaded Iraq and desperately needed to protect critical infrastructure, after the outbreak of swine flu, and after 9/11.

Failing to fulfill his promise that Mexico would pay for the wall is not a national emergency, and if he thinks it is, he should sanction himself for failing to keep his promise.

As I said earlier—and this should bother everybody who believes in our system of checks and balances and who believes in the Constitution—never has a President sought to enact a national emergency like this after Congress has said no. In our Constitution, Congress has the power of the purse. Every single Senator should be voting to protect that.

Over the months and now stretching into years, I have been shocked at how the people around here who declare that they are constitutional conservatives have put up with a President who obviously doesn't care about the rule of law, doesn't care about the separation of powers—as you see here—isn't concerned about having an independent judiciary, and wants to threaten the leading journalists of this country, calling them fake news.

I would think this step would be one step too far, even for anybody in this Chamber who supported this craziness up until this point.

Let's add it all up. What has it gotten us? The President couldn't get Mexico to pay for the wall. He couldn't get a Republican House and a Republican Senate to pay for the wall. So now he is violating the Constitution to steal money that has been appropriated by this branch—by Congress. He is stealing that money from the Department of Defense, from our warfighters, and from the U.S. military to expropriate private land held by American farmers and ranchers—many of whom I assume are Republicans—through eminent domain.

As I have said on this floor before, if any President tried to do that in Colorado, there is not a person in our delegation who would support that—stealing our farms and ranches.

It must be said that, for a politician, he has a very unusual view about eminent domain. Here are some quotes of his: ''I think eminent domain is wonderful.''

For those of you who don't know what eminent domain is, it is when a government decides it wants a project, and your house is in the middle of where that project is going to go. Then, the government can use this thing called eminent domain to take your house and pay you for it. That is what it is. It is rarely used because most people don't want the government deciding whether they can live in their house or on their farm or on their ranch, which—in the case of people on the border of the United States—has been in their family for generations. That is why the local Congressman down there doesn't want this wall built. I think he is a Republican.

But the President said: ''I think eminent domain is wonderful''—not sometimes essential, not a tool that is useful from time to time. He said it is ''wonderful.''

He said: ''Eminent domain is something that has to be used, usually you would say for anything that's long, like a road, like a pipeline, or like a wall, or a fence.''

He didn't say steel slats, but I am sure the same thing applies.

Here is another quote. This is fascinating. I have not met a single person in Colorado who would agree with this—not one—and I bet you there is not a person in Mississippi or Texas or Alabama who would agree with this sentiment either. This is what the President of the United States said:

> Most of the time, they just want money. It's very rarely they say, ''I love my house, I love my house, it's the greatest thing ever.''

Here is another quote—and just for everybody who is watching this because people are going to come out on this floor and say: Oh, no, the money will not be used for it in this case—not for a wall, not for eminent domain.

Donald Trump says:

> We are going to need a little eminent domain to get that wall built, just so you understand. . . . You need eminent domain, you have to take certain areas, okay?

That is the kind of language you would expect out of some autocrat someplace, not in a democracy.

I say to my Republican friends here who are going to vote with the President on this bill, that is what you are supporting when you are voting with him on this bill.

I don't know how anybody goes home and defends that. For anyone who wants to go home and defend misappropriating money that has been dedicated to the Department of Defense and to our military and to take that money extra-constitutionally and use it to take the property of law-abiding citizens, I don't understand how you defend it.

I am not making any of this up. These are his words. By the way, it is no wonder he can't get it through the people's Representatives in Congress because there is not a single person here who would ever admit to doing what he is about to do and what he says he wants to do. What a betrayal of conservative principles this is.

As I said, this whole exercise itself is an admission that he has broken his promise to the American people.

We didn't break it, Republicans in the Senate. We didn't break it, and we should not help him keep it if it is going to break the Constitution. In fact, we can't help him keep it unless somebody around here has a way of persuading Mexico to build the wall or pay for the wall, which I don't think there is a single person here who has that kind of influence, as influential as all of us think we are.

I don't understand it, but it is amazing to me why people would cash in their conservative principles so cheaply—$3.6 billion.

The idea that you would be willing to give up your principles in such a tawdry exchange should be infuriating to the real conservatives who I know are in this country. Many of them live in my State of Colorado, which is a third Republican, a third Independent, and a third Democratic. Don't come to our State and tell us you are taking away our houses because we don't care about them—that we will just take the money instead for a broken promise that you didn't keep. That would not sell in Colorado. I don't know why it sells in Texas. I can't imagine that it does. I don't know how anybody could support that.

By the way, that is not even the most important point. The most important

point is that we have ground ourselves up for a 35-day government shutdown, for 3 months of media cycles on this fight by the President on a wall that he now says is almost fully built, while he is declaring an emergency to build a wall that hasn't been built.

While we are screwing around here to keep a broken promise that Mexico is going to pay for the wall, this is what was going on in China. By the way, I know somebody is going to say: Hey, they have a wall. They do have a wall. They built it 500 years ago. That is not what they are working on today. They took care of that medieval wall 500 years ago.

Today, what they are doing is they are spending $125 billion on high-speed rail this year alone. That is $125 billion on high-speed rail. You get on one of those trains and you could hear a pin drop. If you go on Amtrak, which I take all the time—I feel grateful that we have it—it is less than half the speed, and you can't put your Coca-Cola on the table in front of you without it falling over or falling on your neighbor.

China has spent $300 billion on new roads, bridges, and ports across the globe through their Belt and Road Initiative. They have bought stakes in 16 different ports across Europe and the Mediterranean, some of which have fallen into their hands because—and this is part of the plan—the debt that the countries have put on to build the ports is so onerous that China gets to own the ports. They have built the longest sea bridge in the world. They have laid over 3,700 miles of fiber optic cable to connect Africa to Latin America and, ultimately, to China. On that Belt and Road Initiative, they have laid their technology over that with fiber optic cables so they could extend the surveillance society that they are building inside of China right now, while we screw around with this wall.

By the way, on the $3.6 billion for the wall, here is an interesting chart. Here is how much cement China used over a 3-year period, from 2011 to 2013. This is what they used in 3 years, 2011 to 2013. I was in the Congress then. We were in the depths of the great recession during that period of time. It was 6.6 gigatons of concrete. Here is how much we have built in concrete in 100 years: 4.5 gigatons.

They used 4.5 gigatons in 3 years. They have used dramatically more than we have used in 100 years, and we can't even get an infrastructure bill off this floor. The White House can't even write an infrastructure bill.

All night, every night, on the cable, all we hear is $3.6 billion for the wall, the wall, the wall—the wall that the President says has already been mostly built, that he is now declaring a national emergency to build.

The world is racing ahead of us, as I have said on this floor over and over again, while we are getting run around by one inane distraction after another. It has been said that the President is somebody who is mostly concerned with winning the politics of any given day. That is what he tries to do, and he is often very effective at it. We spend a lot of time talking about him and his priorities, unlike figuring out a plan to counteract what China is doing or others are doing.

I bet they have a great strategy in China and Iran. Russia is not so obviously good at that strategy. Actually, come to think of it, they are pretty good, too. If you can stay off FOX News, the President will not pay any attention to what you are doing, so go do whatever it is you want to do while we fritter away one day after another of the American people's time over a broken promise that he never could keep.

Unless we are prepared to be the first generation of Americans to leave less opportunity, not more, to the people coming after us, we need to do a lot better than what we are doing, and part of that is to ensure that we preserve the institutions that built this country, like the one we are standing in right now.

I know that among some people there is an effort to divide the government from the American people and that there are people here who think they have been sent here for one purpose, which is to discredit the Federal Government.

I have a lot of problems with the Federal Government—lots of them. I was a school superintendent before I came here. I have a lot of problems with what is happening to poor children who are going to schools in our public system of education across the country, so I am not here to defend government or the way it works right now. In fact, I don't think Democrats should be the party defending bad government. We should fix it where it needs to be fixed.

We are talking here about our institutions. We are talking here about the rule of law. We are talking here about the Constitution that generation after generation after generation of Americans has preserved—not always perfectly, often very imperfectly.

Every generation of Americans has seen it as their obligation, their responsibility, to at least try to live up to the pages in our founding documents, and where we failed, we got up and we tried again. This whole country is founded on the idea that we will have disagreements because we live in a Republic, and in a Republic, you have disagreements. There is no King or tyrant to tell you what to think. That is the reason we live in a democratic Republic.

This place here and the Chamber down the hall are part of the mechanisms that were drafted into our founding documents for us to resolve our disagreements. The Founders believed something. They had no good example in the past, but here is what they believed. They believed that out of that vigorous disagreement, we would create more imaginative and durable solutions than any tyrant could ever come up with on their own. That is why they designed the institutions the way they did, and that is why they created the checks and balances that they did. There is a reason no President has ever done what this President is trying to do.

They exercise self-restraint because of what is in the Constitution and because nobody on this floor would have supported him. There are many ways this generation of politicians—and I accept my share of the blame. There are many ways in which we have degraded these institutions in our time. We have destroyed the Senate's responsibility to advise and consent on judicial nominations and Supreme Court nominations. That has been turned into a purely partisan exercise by this generation of American politicians. I am ashamed of that. I am ashamed to have been here when we did that, and I take my share of the responsibility.

What I say to my colleagues is that we cannot continue to degrade these institutions and expect that the next generation of Americans is going to look back on us with anything except contempt. Generation after generation after generation of Americans has preserved these institutions so the next generation could have the opportunity to resolve their disagreements in these Chambers. We will regret it. We will regret it if we go down this road.

As the majority leader said in another time: Things have a way of changing around here sooner than you think, and someday the shoe will be on the other foot. If this Republican sets this precedent and some Democratic President follows it, that is one more step away from living in the Republic that we all claim we cherish, from the democracy we all claim we cherish, to put power in the hands of a tyrant who may or may not represent the will of the American people.

We may never get another vote like this around here. This is going to be the time that each of us is going to decide whether we are going to act to preserve these institutions for the next generation or whether we are going to continue to degrade them in our mindless partisanship and, in this case, to somehow fulfill a promise the President never could keep. That would be a shameful day in the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER (Mrs. FISCHER). The Senator from Texas.

Mr. CORNYN. Madam President, when President Trump declared a national emergency over the crisis along our southern border, it was immediately met with expressions of concern—some, in my view, illegitimate; others, quite legitimate.

As I have said in the past, I will repeat again that this—what we are doing here today—is no one's first choice, but it is useful to recall how we find ourselves at this point today.

Of course, when it comes to funding, when it comes to appropriations, Congress holds the purse. That is why,

each year, the Congress receives the President's budget request for the upcoming fiscal year, just as we did earlier this week.

Even though, in the President's budget, he outlines his priorities, my experience in the Senate is that most Presidential budgets, while they are an expression of the President's priorities, are dead on arrival. It then falls to us, in the Senate and the House, to look at his request and to work on a compromise budget and appropriations process and fund the operations of the Federal Government.

This process is arduous, it is time-consuming, and it is often frustrating, but it is the way the system is supposed to work. As all Americans can attest, what we have seen over the last few months looks like something very different. The refusal of Democrats in the House and the Senate to engage in negotiations on border security funding led us to a 35-day government shutdown.

Despite the clear message from border security experts, despite seeing the humanitarian crisis at the border, described by President Obama in 2014, get many times worse, our Democratic colleagues decided to play politics instead of dealing with the problem.

We heard the Speaker of the House call border barriers immoral. The minority leader here in the Senate said that there would be no additional money for physical barriers along the border. They know, just as I know, that back in 2006 and 2008, the Secure Fence Act was passed with broad bipartisan support, including support from then-Senator Barack Obama, then-Senator Hillary Clinton, and Senator CHUCK SCHUMER, currently the Democratic leader in the Senate, who now feels that this President should not get any additional money to fund border security measures that the President believes are an important response to the crisis we see at the border.

My preference would be for the normal appropriations process to be used, but when your negotiating partners refuse to take a seat at the table, normal goes out the window. Our colleagues across the aisle left the President with few options to fund what he believed was so important for the Nation's security, and that is what led us to this situation.

Enter the 1976 legislation, the National Emergencies Act. What the President did is ask his lawyers to look at what other authority, under congressionally passed laws signed by previous Presidents, might he have to access additional funds, and his lawyers pointed to the 1976 National Emergencies Act, which has granted Presidents, since that time, broad powers to reprogram funding previously appropriated by Congress.

This idea that somehow this is an unconstitutional act by this President is simply wrong. Congress has given the President this authority. They may regret it today or they may disagree that this is an emergency or they may disagree with the way the President wants to spend the money to secure the border, but, clearly, the President is using authorities the Congress has previously granted, not just to him but to all Presidents since 1976.

My father liked to remind me growing up—one of the things he always told me is that hindsight is always 20–20. Our predecessors did not anticipate the fights we would be having today, which are largely contrived and unnecessary. We should be working together to solve these problems, not engaged in a zero-sum game of political brinkmanship. That is what brought us to where we are today.

I think it is appropriate to look at what Congress did in 1976, and in a prospective sort of way, ask ourselves: Have we delegated too much authority to Presidents since that time? There are literally 123 statutory authorizations that could be invoked under the National Emergencies Act—123 times that Congress has said a President, upon the declaration of a national emergency, can reprogram money that Congress has appropriated—123 times. That was a shock not only to me but, I dare say, to virtually all of our colleagues here in the Senate.

Many of these statutory grants of authority are exceedingly broad. They cover everything from the military to public health to Federal pay schedules. With these broad authorities already part of the law, the emergency powers provision could be viewed as a fail-safe for an agenda that the administration—an administration alone—is pushing. Let's say, hypothetically, that a future President decides there is a need to declare a national emergency over climate change. Maybe they decide this is a way to enact the Green New Deal being pushed by some of our colleagues across the aisle.

Considering the potential scope and scale in which these powers could be abused in the future and this overdelegation of authority that Congress has done 123 times, I believe we should take a look at the National Emergencies Act, once we vote today, and have a fulsome debate and discussion about whether this is really the sort of delegation of powers that the Founding Fathers intended when they said that distinct separated power should be given to each branch of the government: the legislative, the judicial, and the executive branch.

It is clear that the President is operating within the authority Congress has given to him. You don't have to like it. You don't have to agree with it, but it is clear the President is operating within the authority Congress delegated to him. Rather than talking in circles and debating that fact, I think our discussion should focus on the structure of emergency powers moving forward.

I believe there is a need to rein back in some of the authority that Congress has delegated to presidents just as a constitutional concern, as a constitutional matter, which is why I am cosponsoring a bill which has been introduced by our colleague Senator LEE which gives Congress a stronger voice in processes under the National Emergencies Act.

That bill will now be referred to the Homeland Security Committee. Chairman JOHNSON has said he will give that bill a hearing and then a markup. Then I would expect, at some point, that legislation will make its way to the Senate floor where we will have a debate and a vote.

The proposal would allow the President to maintain his statutory powers to declare an emergency, but that declaration would end after 30 days unless Congress affirmatively votes to extend it. This would maintain a President's ability to provide funding during national emergencies while restoring Congress's proper authority under article I of the Constitution. I think this is an honest and important effort to hopefully prevent us from ending up in this predicament in the future.

The real cause of where we are today is just politics—Ms. PELOSI's deciding that building any border barrier was immoral, after Democrats and Republicans had not made that a particularly political decision in the past. In fact, it had been bipartisan that we did support it as one tool in the toolbox for Border Patrol, in addition to technology and personnel, some physical barriers.

Rather than scolding the President of the United States for exercising statutory authority that Congress has already given, we should try to work together to solve these problems rather than engaging in the kind of political brinksmanship that brings us here today. We should fix—should it be the will of Congress—this massive delegation of authority not just to this President but to any President since 1976.

I have to disagree with our colleague from Colorado and others who suggest that what is happening at the border is not serious. By the way, I haven't heard any of them suggest any alternative solutions. Perhaps instead of Border Patrol securing the border we ought to have police officers at the border directing traffic, waving people through to their chosen destination. I think that would be a terrible mistake, but that seems to be the only alternative our friends across the aisle are offering to this humanitarian crisis and emergency at the border.

Last month, 76,000 people illegally crossed the border and were apprehended by U.S. Customs and Border Protection, making this an 11-year high. So rather than 76,000 people in 1 month, which our Democratic colleagues don't seem to think is a problem, let's say next month it is 150,000 or 300,000 or 600,000. As long as we have this attraction for people from other countries to come to the United States, and if they pay the fee to the criminal organizations that transport them

here, they will successfully make their way into the United States. They are going to keep coming.

It is clear this problem isn't going away, and it is overwhelming the communities along the border as well as the Federal Government's ability to deal with it.

I remember what the Director of Customs and Border Protection said. He said: When the Border Patrol is handing out diapers and juice boxes to children coming across the border, the drug cartels will exploit that and move their poison into the United States. I will just remind my colleagues that more than 70,000 Americans died of drug overdoses last year alone. A substantial amount of it was synthetic opioids in the form of fentanyl, but a lot of it had to do with heroin that had made its way from Mexico into the United States because 90 percent of the heroin that comes into the United States comes from Mexico. So while the Border Patrol is handing out diapers and juice boxes, the drug cartels are moving in heroin, fentanyl, and methamphetamine across the border into our Nation and getting rich in the process.

We know border security is complicated, and that it is not just about security, it is about facilitating legitimate trade, travel, and commerce. Last year alone, there was $300 billion worth of commerce that took place just at Texas ports of entry with Mexico—$300 billion. That supports an awful lot of American jobs.

The terrain in the 1,200-mile border between Texas and Mexico varies significantly. What works well in one sector does not work well in another. What I continue to hear from my constituents, including elected officials at the border, is that if this is the Border Patrol telling us what they need in order to succeed to do the job we have asked them to do, we are all in, but if this is just politics and elected officials in Washington trying to micromanage the solution along the border, we are skeptical. This is what they tell me, and I don't blame them.

I think we need to take action to adequately fund our border security missions, and I hope our discussions in the coming months will be more productive than they will be this year.

I will vote against the resolution of disapproval today and encourage my colleagues to instead ask my colleagues to focus their energy on reforming the legislation that got us into this situation to begin with.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am here this afternoon to support the resolution that would terminate the President's unconstitutional emergency declaration. It is a declaration that would take money away from critical military construction projects to fund a costly and ineffective border wall.

Congress did not provide these funds for a border wall that President Trump promised Mexico would pay for; rather, we specifically allocated these resources that are being talked about to be used by the President for the wall to ensure that our military is ready and capable and that our servicemembers receive the support they deserve.

The President's attempt to circumvent Congress by making the military pay for his border wall jeopardizes our national security and does a disservice to our men and women in uniform. That is why the House passed the legislation on the Senate floor today and why I introduced legislation with my colleagues in the Senate to terminate the emergency declaration.

The resources Congress has provided support military construction projects in New Hampshire and across the country. Those projects often provide necessary infrastructure improvements that enable our servicemembers to accomplish their mission.

Several of those projects that, I think, are potentially being reviewed for being added to the list of projects to have money taken from are at the Portsmouth Naval shipyard. It is one of the many installations that faces potential cuts in funding if this emergency declaration is executed. Congress has already approved funding for several projects at the shipyard and at our public shipyards around the country that support critical submarine maintenance, and any disruption to funding of those projects could lead to costly delays and to a reduction in military readiness because they would derail carefully laid plans to upgrade aging infrastructure. Delays in projects that support the shipyard's mission threaten to exacerbate the Navy's already high demand for submarine maintenance and the projected submarine shortfall in the coming years.

I recently sent a letter to President Trump and spoke with the leaders at DOD urging them to protect these important projects at the shipyard, but the only way to ensure that these projects move forward is to terminate the emergency declaration.

In addition to projects at the shipyard, the emergency declaration could also impact New Hampshire's National Guard readiness centers, which are in desperate need of modernization. A 2014 report from the Army National Guard ranked the condition of New Hampshire's National Guard facilities 51 out of 54 States and territories.

Our National Guard has been forced to shoulder an enormous burden since the wars in Iraq and Afghanistan. Servicemembers have often faced multiple deployments, and they still had to respond to national disasters at home and to other personal crises. The New Hampshire National Guard can't afford further delays to the readiness center improvements because of President Trump's emergency declaration.

These military construction projects in New Hampshire are at risk because President Trump wants to score political points by building a wall rather than focusing on the border security proposals that actually work. I was disappointed to hear my colleague from Texas accusing Democrats of not supporting border security because, in fact, virtually everyone here has supported significant border security proposals in the past, including targeted fencing in vulnerable areas where we know fencing or barriers can make a difference. We have supported more Border Patrol agents, better surveillance and screening technologies, and increased security at the ports of entry.

Coming from a State where we have a huge challenge with the opioid epidemic, where we understand the impact of having cocaine and fentanyl and other drugs come across our border, I also know the best way to interdict those drugs is through the ports of entry. That is where most of them are coming from.

In a recent bipartisan budget agreement Congress provided, I supported, along with the majority of this Senate, nearly $15 billion for Customs and Border Protection, including $1.3 billion for physical infrastructure in vulnerable areas along the southern border. The reality at our borders is, the vast majority of drugs and contraband come through the ports of entry. They don't come through the areas between the ports of entry.

In the past 2 months alone, law enforcement officials have made the largest cocaine seizure in the past 25 years at Newark, NJ, and the largest fentanyl seizure ever at any port of entry in the U.S. in Arizona. Despite this reality, President Trump insists on having our military bear the burden to fulfill his campaign promise.

His insistence that the situation at the border requires the military to pay for his wall runs counter to what I have heard in the Senate Armed Services Committee from our military leaders. In a recent Senate Armed Services Committee hearing, General O'Shaughnessy, Commander of U.S. Northern Command, testified that the threats to our Nation on our southern border are not military in nature, and he has never advised the President that a border wall is necessary to support his mission. Just this morning, we heard testimony at our SASC hearing with Secretary Shanahan and Joint Chiefs Chairman Dunford that we have more troops on our southern border with Mexico than we have in all of Europe, on Europe's eastern border with Russia, and we have almost as many on our southern border, and one-quarter as many as we have on the DMZ on the border with North Korea. By any measure, North Korea and Russia pose a greater threat to our national security than Mexico. It is a policy that does not make sense. Yet we have more troops on the southern border now than we do in Eastern Europe and in Syria.

The fact is, the men and women at the Portsmouth Naval Shipyard and at the New Hampshire National Guard

and men and women serving in our military across this country should not be forced to sacrifice readiness for an unnecessary border wall that takes funding away from projects that this Congress has already approved that are going forward.

I urge my colleagues on both sides of the aisle to protect Congress's constitutional authority and defend our national security by supporting the resolution to terminate President Trump's emergency declaration.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF BUSINESS

Mr. MCCONNELL. Madam President, I ask unanimous consent that there be 90 minutes of debate, equally divided, remaining on the joint resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Rhode Island.

LIBERIAN-AMERICANS

Mr. REED. Madam President, I come to the floor today to plead on behalf of Liberians who face the immediate threat of deportation from the only home many of them have known.

I have come to the floor many times over the last two decades to highlight the plight of Liberians, who, after fleeing civil wars, political turmoil, economic instability, and deadly disease, were given the ability to stay in the United States and work, pay taxes, and contribute to our country and local communities by successive Republican and Democratic administrations—that is, until last year, when this President terminated deferred enforced departures, DED, the most recent status offered to Liberians. I urge the President to reconsider his decision and reinstate DED by March 31 to save Liberians from being forced to leave their jobs, their families, and their homes.

Moreover, the Liberian community deserves a long-term solution. That is why I also urge my colleagues to take up S. 456, the Liberian Refugee Immigration Fairness Act, to end the perpetual limbo for Liberians here in the United States and ensure our national security interest in fostering Liberia's recovery. This bill provides legal status and a pathway to citizenship for qualifying Liberians. I have introduced similar legislation continuously since coming to the Senate and have worked to include its key objectives in comprehensive immigration reform bills that passed the Senate in years gone by, only to die in the House of Representatives.

I have been joined in this mission by countless advocates and many colleagues, including my Rhode Island colleague, Senator SHELDON WHITEHOUSE, as well as Senators KLOBUCHAR, SMITH, DURBIN, CARDIN, VAN HOLLEN, and others. I thank them for their support and urge the rest of our colleagues to join us in supporting the Liberians who are hard at work enriching our communities.

Today, I met with several Liberians from Rhode Island. I hope my colleagues similarly meet with Liberians from their States so they can hear firsthand about what would be lost if these members of our communities are deported.

Beginning with its founding in the early 19th century by freed American slaves, our country has had deep ties with Liberia. It goes without saying that when Liberians faced tragedy, with their country engulfed by a civil war that would last from 1989 to 1997, claiming the lives of thousands, displacing more than half the country's population, halting food production, collapsing the economy, and destroying its infrastructure, that our country would open its arms.

By 1991, an estimated 14,000 Liberians had fled to the United States. In March of that year, the Attorney General under President Bush granted them the opportunity to register for temporary protected status, TPS.

Before the prospects for a safe return could be realized, Liberia plunged into a second civil war from 1999 to 2003. This horrific conflict ended with the departure from power of former President Charles Taylor, who is currently serving a 50-year prison sentence by the Special Court for Sierra Leone for war crimes.

In 2014, still poverty-stricken and struggling to recover, Liberia found itself plunged into an extensive outbreak of the Ebola virus. Ebola killed an estimated nearly 5,000 of the over 10,000 persons in Liberia who contracted the disease. The outbreak overwhelmed the country's already fragile healthcare system, infrastructure, and economy while exacerbating social tensions.

Throughout these tragic conflicts and challenges, Liberians who fled to the United States have been granted the ability to stay here either under TPS or DED while conditions remain unstable in Liberia. In order to participate, these Liberians had to submit to vigorous vetting, pay hefty fees, and stay out of trouble with the law.

While unable to access earned benefits available to American citizens, these statuses at least allowed Liberians to apply for work authorizations so they could join the workforce or start their own businesses, pay taxes, and raise families. Once again, they work, but they do not earn any of the benefits other Americans earn.

They have found themselves and their communities have found them to be some of the most responsible, hardworking, and decent people we see throughout our communities. Many of these individuals have American citizen children who attend American schools and serve in our military. These children have known no home other than America. They are Americans, and it would be a tragedy if their parents and grandparents were suddenly taken away, physically taken away and sent back to Liberia, because for all of them, since the early 1990s, America has been their home.

In the years since 1989, Liberians have become our neighbors and friends, pastors, soldiers, police officers, health workers, and many more professions. They are an important community that contributes a great deal of diversity and prosperity in States like Rhode Island, Minnesota, Idaho, and other places around the country. It would do our country no good and would be simply cruel to uproot these Liberians from their families, employers, and communities.

Moreover, deporting these Liberians would be contrary to the national interest of the United States and destabilizing to the already fragile West African region. We must pursue all possible efforts to ensure regional stability by fostering Liberia's continuous post-war and post-Ebola crisis recovery. We must also continue to build on our country's substantial foreign policy investments over the past years, including U.S. bilateral assistance and peacekeeping investments in the region.

Given Liberia's precarious condition and lack of resources, the sudden deportation of as many as 4,500 affected people to Liberia would overburden the country's limited infrastructure and ability to maintain peace and deliver essential services, all the while sabotaging the hopes for progress following the country's first democratic transition of power in years that occurred last year. Deporting this population would also cause Liberia economic harm by curtailing crucial private sector investment and socioeconomic assistance that Liberians in America have long provided in the form of remittances to their relatives in Liberia.

I again plead with the Trump administration to reinstate DED. Please don't separate and uproot hundreds of Liberian-American families from their jobs and homes and force them to return to a country that is unrecognizable for many of them. These Liberians are Americans in every sense of the word except for a piece of paper.

While discussions continue about the best path forward for Dreamers and TPS, Liberians cannot wait another month or another year. They have just over 2 weeks before their time may be up.

In my view, with each year that has passed since the first of these Liberians arrived, the case has grown stronger that they should have the option to adjust their status and remain in the communities where they have made their homes and raised their families.

We have long since reached the point where simple justice requires that Congress extend this option to these Liberians. So in addition to urging President Trump to reinstate DED, I also urge my colleagues to take up and pass the Liberian Refugee Immigration

Fairness Act and put an end to uncertainty for this population after decades of displacement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

H.J. RES. 46

Mr. KAINE. Madam President, I rise, as colleagues of mine have earlier today, to talk about the President's emergency declaration. Before I do, I will just say that this declaration deals with budgetary matters at the end of the day, whether the President should be able to take $6.1 billion this year and possibly more in future years from the Pentagon's budget to deal with a nonbudgetary emergency.

I want to acknowledge that today is the last day of my budget staffer, my right hand on all Federal budget matters for the last 6½ years, Ron Storhaug. I am going to miss him. I will start there. I will miss Ron. He has done such a good job. My only good feeling is that he is staying right here in the Senate and moving to work with the senior Senator from Maryland.

I want to talk about the declaration and urge my colleagues to vote to reject what I believe is the President's unwise use of his power to raid the Pentagon's budget.

Is there an emergency at the border? There is a serious issue at the border—a whole series of serious issues, negative but also positive. Trade happens across all the borders of the country. But all the testimony before the Armed Services Committee, where I sit, says there is no military emergency at the border. We heard testimony from General O'Shaughnessy, who is the commander of what we call NORTHCOM—everything in the Americas north of Mexico's southern border. General O'Shaughnessy said there is no military emergency at the border between the United States and Mexico. We heard the same testimony this morning from Defense Secretary Shanahan and the head of the Joint Chiefs of Staff, General Dunford. So there is no military emergency at the border.

Compared to other significant challenges we deal with—70,000 drug overdose deaths a year, climate change, 40,000 deaths a year from gun violence, including both homicides and suicides, homelessness, lack of medical care, military housing—it is hard to see why the border issue would be an emergency that would rise to the top of any list. I can certainly assert this: There are much higher priorities for Virginians.

While we could argue about whether it is an emergency, one thing I think is pretty clear—it is inarguably a Presidential power grab. The President is unhappy with congressional appropriations for the border, so he is declaring an emergency to take $6.1 billion this year and possibly more in future years from the Pentagon's budget. This will establish a very dangerous precedent.

First, let's focus on the President's being unhappy. For all of this President's tenure up until January 3, he had two Republican Houses. There were two Republican Houses and a Republican President. Why should he be unhappy with the budget? He would have had the ability to convince Republican majorities to do what he wanted, but he could not. So he is unhappy with what Congress, the appropriating branch, has put on the table. We put billions of dollars on the table for the border, but he is unhappy with it, and so now he is going to declare an emergency.

It raises two important questions. Can a President just declare an emergency every time he is unhappy that Congress doesn't accept his budgetary proposals? Second, can the President use the declaration of a nonmilitary emergency to just tap a spigot into the Pentagon's budget? That is exactly what President Trump is trying to do in this case.

The President has declared an emergency that all agree is a nonmilitary emergency. The President said: I want to take $6.1 billion from the Pentagon's budget to deal with this emergency.

He wants to take $3.6 billion from military construction. Military construction are the funds we use to build facilities on our military bases across the United States and across the world or to rebuild facilities, like the airbase at Tyndall or the big sections of Camp Lejeune that were hit in hurricanes last year. That is what the MILCON budget is supposed to do.

This morning, I toured Fort Belvoir to visit with Army families living at Fort Belvoir in Fairfax County, VA. They shared with me atrocious stories about the condition of the housing they are living in. These are atrocious stories of rodent infestation, black mold, lead, and asbestos. I drove by one military house at Fort Belvoir that had a big warning sign on the door: ''Poison.'' You could not enter it because of efforts at asbestos and lead remediation.

The families told me about the poor physical conditions of their properties. They told me about the fact that they couldn't get a response when they were trying to get help. Then they told me, tragically, about the illnesses of their children, hospitalizations, and having to move out of their homes and apartments. One mother of a 10-year-old talked about the fact that her 10-year-old daughter, because of mold in her military housing unit, missed 45 days of school in the last school year. Her daughter had to be absent for a quarter of the school year because of the poor physical conditions of military housing.

The MILCON budget is there to deal with issues like these. Yet the President wants to take $3.6 billion out of the MILCON budget. The President wants to take $2.5 billion out of the drug-interdiction budget within the Department of Defense. Press reports suggest that account only has about $85 million available, so what they would need to do is cannibalize other accounts to fill up that account to $2.5 billion to then take out. Those are the important funds—military construction and drug interdiction—the President is proposing to raid.

I think it is important to notice this: The President's emergency declaration is not just about tapping the budget this year for $6.1 billion. Earlier today, in an Armed Services hearing, I asked Secretary Shanahan: Doesn't this emergency declaration last until the President declares it is over? If we don't rebut the emergency, it will not just be fiscal year 2019; it will be fiscal year 2020 or 2021 and beyond. It will enable the President to tap a spigot into the MILCON budget and draw out moneys this year, next year, and in future years. So it is $6.1 billion that he is asking for this year, but unless Congress asserts its article I power to say, no, we are the appropriators, we will basically be allowing the President to tap into this fund in perpetuity, thereby affecting important military construction priorities that would be good for the military families and our Nation's defense.

Which military construction projects might be compromised by the President's use of this $6.1 billion?

When the President declared the emergency, I wrote a letter to Secretary Shanahan on February 15 and asked: Can you give us a list of the projects that will be compromised by this $6.1 billion raid on the Pentagon's budget? I have not received a response. That was 27 days ago.

This morning, before the committee, Secretary Shanahan was asked: Why haven't we received a list? If the President wants to take $6.1 billion out of the Pentagon's budget, give us a list of the potential projects that could be affected.

I wrote a letter on the 15th, and staffers have been reaching out to the Pentagon. If you do not know precisely the projects, give us the universe—all unobligated MILCON projects on your priority list that could possibly be affected. Today, after not responding to the requests, Secretary Shanahan said that he will send us a list at the end of the day: I will send you a list, basically, after you vote this afternoon.

The vote that we will be casting this afternoon is about whether the President should be able to raid the Pentagon's budget for $6.1 billion. For a month, we have been asking what projects might be affected, and they are now proposing to give us an answer to the question after the vote. They have had the list since the very day we asked them. They keep a list every day about unobligated MILCON projects, but the service secretaries are not allowed to share those lists with Congress until the Secretary of Defense allows them to, and he is going to allow us to see it today.

Everybody is voting to cannibalize the Pentagon's budget to the tune of $6.1 billion. All of the Senators should

be interested in what projects might be affected in their own States that are necessary to the Nation's defense before they vote to give the President this power.

In conclusion, I hope, today, we will stand up against the President's power grab. We shouldn't let the President tap a spigot into the Pentagon's budget to deal with an emergency that all have agreed is a nonmilitary emergency. We shouldn't let him tap a spigot that is not just for this budgetary year but for future fiscal years, as well, which is the effect of the vote today.

We are the article I branch, and under that section of the Constitution, we set the spending priorities. Because he is unhappy with our work product, the President should not be able to overturn the spending priorities that we have established in our appropriations bills and raid the Pentagon's budget without telling us where the moneys will come from.

I yield the floor.

The PRESIDING OFFICER (Mr. CRUZ). The Senator from Montana.

Mr. TESTER. Mr. President, I rise to talk a little bit about the emergency declaration by the President. It is a bad idea. I think everybody in this body knows it is a bad idea, and we will see how many people will vote to override that bad idea. It is a bad idea for a number of reasons.

The President says it is for this country's safety, but he is robbing from our military to build a wall on the southern border. Yet, I might add, most of the money that we allocated in the last fiscal year is still there—$1.3 billion—plus the $1.375 billion that was authorized by the conference committee, made up of a group of Democrats and Republicans from the House and the Senate, which means it was passed by both bodies. It was money that he received but to which he said ''I don't like it'' and declared an emergency declaration.

Look, Montana is no stranger to military service. We are home to the second-most veterans per capita of any State in the country. Every time our Nation is in need, Montanans step up to the plate and answer the call to serve. That is why, today, I rise to fight back against the President's declaration, for it will be shortchanging our troops in favor of a campaign promise to build a wall that he said Mexico would pay for.

The President's plan to raid our military resources would directly hurt Montana's military community and its men and women in uniform. The heart of the Air Force's Global Strike Command is located in Great Falls, MT, at Malmstrom Air Force Base. The 341st Missile Wing at Malmstrom is a critical component of our Nation's nuclear triad. It is our great deterrent against adversaries who would do us harm. As President Kennedy said, it is our ace in the hole.

Over the past few years, I have been fighting to secure the military construction dollars on the Appropriations Committee to meet the needs of the Malmstrom Air Force Base. I led a bipartisan effort to deliver more than $19 million to construct a new Tactical Response Force Alert Facility. That facility was a top priority for Malmstrom because the current facility is old, laden with asbestos and lead-based paint, and this has complicated efforts to secure the base's missile sites.

I also helped to secure some $14.6 million for the construction of a missile maintenance dispatch facility. This facility will allow the base to more properly and efficiently store critical components and equipment for the missile field and to retrofit its hangar so we can ultimately house the replacement fleet for its Vietnam-era Hueys, which should be replaced in the next couple of years. Unfortunately, the construction of these facilities and of many others around the country is at risk because of the President's decision.

More alarmingly, Malmstrom is in critical need of a weapons generation facility, and I have been fighting for years to ensure that this project is included among the Air Force's top military construction priorities. Just yesterday, the Secretary of the Air Force confirmed that the funding for the facility has been included in the fiscal year 2020 Air Force budget request. This investment represents a significant step forward for Malmstrom Air Force Base, for the Air Force, and for our national security. It is important because this is where ICBM warheads are maintained and stored.

As a result of the deterioration of this facility, airmen and missileers must confront numerous safety and security challenges while carrying out their missions every day. Yet now we have to tell them that this critical project, which the Air Force has said it desperately needs and which it does desperately need, could very well get kicked down the road and down the list of priorities because the President would rather spend billions of the military construction money on the construction of his wall.

The same is true for other critical infrastructure investments at Malmstrom, including a new security forces compound, but the President doesn't care. He is more interested in robbing taxpayer funds to build an unnecessary wall on the southern border, but Congress has rejected the President's request on a bipartisan basis. His defiance of that rejection comes at the expense of my State's defense installations.

Great Falls is also home to the Montana Air National Guard. My older brother was in the Air Guard for 35 years, and I have seen their work up close. Since we entered the Middle East conflict 17 years ago, this country has used the Guard like never before. They have asked a lot of our citizen soldiers and airmen, and they have always delivered whether that be when they were deploying to war, fighting against wildfires, or saving families from natural disasters.

In Montana, they have asked for little in return. They have asked for the construction of a new aircraft apron to park and store the Guard's C–130 fleet. Once again, we got to work, and we secured the money—$9 million—to make sure that our C–130s would stay in good shape for years to come. Max Baucus and I fought hard to bring those C–130s to Montana, which is why I am so outraged that the President's emergency declaration puts this funding at risk. I know that nobody in this body takes the decision of sending young men and women to war lightly, but when those difficult decisions are made, we had better deploy them with the best and the safest equipment.

The debate today is clear: A vote against the President's disaster declaration is a vote to protect our coequal branches of government, our system of checks and balances, and our Constitution. A vote for the President's power grab is a vote for Federal overreach and is a violation of our oath of office.

I hope my colleagues who vote for this plan are on the first plane back home to explain to their constituents why they are shirking their basic duties. I hope they explain to their communities—and there are many like Great Falls, MT—why they are ripping those investments out of their towns and out of our military. I hope they explain to our future leaders why it is OK to follow the Constitution only when it is expedient.

This disaster declaration undermines the bipartisan work that the Republicans and Democrats have done to rebuild our military. It sets a dangerous precedent that, no doubt, will be abused by future Presidents, and everybody in this body knows that.

We have an option here. We have the ability to stand with our troops and to stand with the Constitution and reject this declaration. It is critically important if we are going to have a strong military. I think we decided in the last Congress to make investments into our military that were much needed, and now the President is pulling those dollars out. It is nothing short of ridiculous.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

GM CLOSURES

Mr. BROWN. Mr. President, I concur with the comments of my friend from Montana. I know what this President wants to potentially do to the Wright-Patterson Air Force Base and to the air bases in Springfield, in my hometown of Mansfield, in Youngstown, and in Toledo in my State and so much more.

Last week, we got yet another clear illustration of whose side President Trump is on. All week, we got news of favor after favor from the Trump administration in what it is doing for Wall Street. The White House looks

like a retreat for Wall Street executives except on the days it looks like a retreat for drug company executives.

Wall Street banks have complained to the President about the Volcker rule. That is the rule that stops the big banks from taking big risks with American families' money. Wall Street didn't like it, but it had passed this Congress a decade ago. The rules were being written far too slowly because of Wall Street's influence even during the Obama years, but because Wall Street didn't like it, the Trump administration agreed to rewrite them. The Wall Street banks complained that even the rewrite was not weak enough, so the administration reportedly is going to water it down even further.

Secretary Mnuchin, the Secretary of the Treasury—another Wall Street guy who was appointed by this President—announced he is going to go easier on shadow banks, and the Fed announced it would make it easier for big banks to pass the annual stress test. It is like this body and Senator MCCONNELL, who is down the hall, have forgotten what happened 10 years ago. It is this collective amnesia that has worked its virus through this body and through the administration so that people forget what happened 10 years ago with regard to our economy.

My wife and I live in Cleveland, OH—ZIP Code 44105. In the first half of 2007, that ZIP Code had more foreclosures than any ZIP Code in the United States. I see what happens when people lose their homes. I think about what happens to families who have to explain it to their children, who have to give away their pets, who have to move to new school districts—all the things that happen to families when their homes are foreclosed on or when they are evicted from their apartments. Yet none of these executives seem to mind. None of these executives have to have those conversations. Nobody in the Trump administration has to have those conversations with one's kids.

The Trump administration is weakening the stress test. It is weakening some of the capital. It is simply doing Wall Street's bidding over and over—and that was just last week. Of course, we know that comes after 2 years of this President's and this Congress's doing Wall Street's bidding.

To me, the one what was even more personal was how this administration decided to weaken the overtime rule. Here is how it works. If somebody is making $40,000 a year and is working as a night manager at a restaurant, say, or at any kind of job in which one may manage a few people and is making $35,000 or $40,000 or $45,000 a year, if the top people of the company give this gentleman or gentlewoman who is doing this job the title of management, then they don't have to pay him or her overtime.

They can work them 45, they can work them 50, they can work them 60 hours a week and pay them not a dime of overtime—nothing. They get a salary for 40 hours.

So you take a worker, you pay that worker $45,000 a year, $40,000 a year, the owners of the company classify them as management, and they can refuse to pay them for the extra 10 or 15 hours. That is 10 or 15 hours without pay or it is 10 or 15 hours away from family, away from raising your kids, and the administration, of course, sided with the companies. Of course, they sided with Wall Street. Of course, they betrayed workers. They never ever side with workers.

Look at Youngstown, OH, right now. This President stood by while General Motors closed the Chevy Cruze plant. It had been there 53 years—Lordstown, OH, a valley of about 400,000 people. This is 5,000 jobs. There are probably another 4,000 to 5,000 jobs for people who worked in the supply chain and made components that go into the Chevy Cruze. I asked the President personally—first, he didn't even know about the plant closing when I talked to him, even though by that time they had laid off about half of the workers. Then I asked him face-to-face, and I asked him on the phone to actually call the CEO of GM to make an appeal to say: Instead of using your huge tax cut that you got from the White House to build more jobs overseas and to do stock buybacks so the executives are getting richer, how about investing in this General Motors plant, how about retooling, which this company has done many times in the past?

I remember one of the best days, other than the birth of six of my grandchildren during my last term in the Senate, during that several years—I remember the best day of that last term was when President Obama, Secretary of Labor Perez, and I stood together in Columbus, OH, at Jeni's ice cream, and we announced that the Obama administration was going to update that salary threshold on the overtime rule. If you work extra hours, you get extra pay, you get time and a half under the law—under the law the way that President Obama did it.

The Obama rule would have meant that more than 4 million Americans—130,000 people just in my State, 130,000 people, if they work 10 hours, they get hundreds of dollars in overtime pay. If they are working 50 hours instead of 40, they literally would get—depending on their wage, of course—at least another $100 in their pay.

Now, because of Trump and the Secretary of Labor in this administration—first because of some judges and now the President—those workers never got that raise.

Attorneys general around the country, Republican, far-right attorneys general, including one in the Presiding Officer's State, are always glad to do the bidding of their corporate sponsors. They are always glad to do the bidding of billionaires. They are always glad to do the bidding of the richest 1 percent in this country. They blocked it.

Now President Trump has come up with a new rule that leaves most of those workers behind.

Again, these aren't rich executives who are working. I am sure the Presiding Officer, the Senator from Texas, most of us work well over 40 hours in these jobs. We get paid a salary; it is a good salary. We shouldn't get paid overtime; neither should a corporate lawyer who is working more than 40 hours overtime, and neither should an executive nor should a doctor who works more than 40 hours get overtime. But these are workers who are making $30,000 and $35,000 and $40,000 a year, and you classify them as management, so you refuse to pay them overtime. That is what this rule is about. It means that millions of ordinary workers are not getting the pay they have earned.

As if the richest 1 percent aren't doing well enough without this rule, President Trump again—President Trump again—betrayed workers. Again he stood with the billionaires. Again he stood with the largest corporations that ship jobs overseas.

It comes down to whose side you are on. Are you on Wall Street's side? Are you on the side of Senator MCCONNELL, who responds to every special interest in this country that wants something from this Senate? Are you on their side or are you going to be on the side of the American workers?

This President came to Youngstown. He promised to fight for American workers. He breaks that promise damn near every single day. He breaks it over and over and over.

If you love this country, you fight for the people who make it work. I wish President Trump would understand that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

H.J. RES. 46

Mr. PORTMAN. Mr. President, I am here to talk about the vote that we will take later today on this floor regarding the President's national emergency declaration.

From the outset of this process, I have had two objectives. One is to support the President on the crisis at the border. I believe his plan to address that crisis is a good one, and we should support it. But, second is to do it in the right way, without setting a dangerous new precedent counter to a fundamental constitutional principle, without tying up the needed funds for the border in the courts, and without taking funds away from important military construction projects for our troops.

Unfortunately, despite a sincere effort by the administration as recently as this morning to try to work with me and other colleagues, including the Presiding Officer, we were not able to agree on a path forward that addresses those concerns that I just outlined.

I am going to lay out in a minute how I think we can better achieve the President's goals of strengthening our border security without invoking the national emergency and the funding he

seeks through that national emergency.

First, let me repeat what I have said on this floor many times and said consistently: I do believe we have a crisis at the border—a humanitarian crisis, a trafficking crisis, a drug crisis. According to Customs and Border Protection, in February—last month—76,000 illegal immigrants arrived at our southern border. That is an average of about 2,000 every day. Since October of last year, we have apprehended more than 268,000 people at the border. That is about a 100-percent increase over the same period last year. We have also seen a 300-percent increase in families arriving at the border compared to this time last year. By the way, the vast majority of those are from three countries in Central America.

This is a humanitarian crisis. The journey to the United States from these so-called Northern Triangle countries is incredibly dangerous, especially for women and for children. They face violence from gangs and traffickers and hunger and dehydration in the rough terrain. Many of them arrive at our border traumatized, hurt, sick, and often we don't have the resources to provide for those needs.

There is also a growing human trafficking crisis. Our lack of border security allows these smugglers—human smugglers—to move across the border unchecked. Increasingly, they are taking advantage of these flows of individuals to traffic women and children.

In particular, I will say the Border Patrol resources are spread thin trying to monitor these areas that do not have barriers.

Third, this is a drug crisis. The Drug Enforcement Agency has said that the southwest border ''remains the primary entry point for heroin into the United States.'' That is not a debatable point. I am told that with regard to Ohio, where we have been devastated by the opioid epidemic, over 90 percent of the heroin is coming across the southern border.

Fentanyl, the deadliest drug of all, which comes primarily from China and primarily through the U.S. mail system—50 times more powerful than heroin—is increasingly coming across the southern border too. Yesterday I learned from Customs and Border Protection that fentanyl seizures along the border between the ports of entry have increased by 400 percent between 2016 and 2018.

As we are finally beginning to make progress on the opioid crisis in my home State of Ohio and around the country, finally reducing the number of heroin and other opioid overdose deaths for the first time in 8 years, we are seeing a reduction in those deaths, but crystal meth and the devastation it causes is coming back—coming back with a vengeance. It is more pure than ever, more powerful than ever, and it is coming from Mexico.

Some of you may remember in your own communities the issue of crystal meth labs being in people's houses and the environmental damage it caused and the crystal meth being cooked. That is not happening much anymore. Why? Because the pure crystal meth from Mexico is so much more powerful and less expensive; it is cheap.

Law enforcement tells me that on the streets of Columbus, OH, pure crystal meth is now plentiful and less expensive than marijuana—and far more dangerous. Where is this coming from? It is coming from Mexico.

Even with limited resources, in fiscal year 2018, Customs and Border Protection seized almost a half million pounds of marijuana and 11,000 pounds of methamphetamine between ports of entry. At the ports of entry, they seized over 1,700 pounds of fentanyl—by the way, that is enough to kill about 3 billion people—1,700 pounds of fentanyl, three flecks of which can kill you, 56,000 pounds of meth, and nearly 52,000 pounds of cocaine.

Frankly, that is the tip of the iceberg. Most of it is getting through. They are checking only a small percentage of shipments, meaning the vast majority of drugs are coming across our borders undetected. We need to do more.

There is no question we need stronger border security. Again, I support the plan the President has outlined, including the $5.7 billion the President has requested for walls and other barriers.

That $5.7 billion number, by the way, wasn't just picked out of thin air. It funds the top 10 priorities of the Customs and Border Protection Border Security Improvement Plan. The experts have given us a plan, and the President's $5.7 billion simply funds what the experts have said.

This plan, by the way, the expert's border security plan, has been embraced by this Congress in the last two appropriations bills. They pointed to that plan and said: This is the path forward. These are the experts. It is not controversial.

By the way, the experts have recommended not that we build a wall from sea to shining sea—it has been mischaracterized as that—but 234 miles of barriers, walls, and other fencing at places where people cross the border most frequently, primarily in the State of Texas, primarily in the urban areas—places where it will make the most difference.

Funding for these types of barriers has been included in the budget requests from previous administrations, of course. Previous administrations have built hundreds of miles of fencing—over 500 miles.

It has also been included in appropriations bills passed by Congress during the last two appropriation cycles by both Republicans and Democrats. Why is it that this administration can't build the barriers that other administrations have and that Congress in the past has supported?

Of course it is not just about more physical barriers, and the President's plan also recognizes that. It calls for more Border Patrol agents, more technology, more surveillance, more drones, more cameras, more screening at our ports of entry, more technology to stop this illegal flow of drugs. That is also a significant part of the plan.

But erecting more barriers and fencing in key areas along the border will help stem the tide. It will ease the burden on our Border Security personnel and allow them to focus their resources more effectively.

It is time to listen to the experts and give them what they need to carry out their important mission, but we have to do that in the right way.

As we all learned in high school, our government has a system of checks and balances. It gives some powers to the President; it gives some powers to Congress. Our Constitution explicitly gives the U.S. Congress what is called the power of the purse.

Congress, not the President, has the sole authority to determine how to spend taxpayer money, and that is appropriate. After all, we are here to represent the people. We are most accountable to the taxpayers. Once we appropriate the money for a specific purpose, then it is the President and the executive branch that are responsible for administering those programs.

We had our spending fight here in Congress. I thought we should give the President the full amount of money he requested for barriers, and I voted that way. At the end of the day, Congress decided to give him only some, not all, of the funds he requested.

Under current law and current congressional approval and authorities, without declaring a national emergency, President Trump can actually access additional funds that get him to the $5.7 billion he requested. As the Wall Street Journal said in a recent editorial opposing a national emergency, ''The President doesn't need to invoke a national emergency to build his wall along the southern border.''

Declaring a national emergency to access different funds sets a dangerous new precedent. The use of national emergency powers to circumvent Congress's explicit decision on funding is unprecedented. No President has ever used what is called the National Emergencies Act in this way. As a result, it opens the door for future Presidents to implement just about any policy they want and to take funding from other areas Congress has already decided on without Congress's approval.

Once a President declares an emergency, he or she has access to a lot of power. Some would say nearly unlimited power. A future President could seize industries or could control means of communication. Think of the internet. A future President may well say that climate change is a national emergency and use emergency authorities to implement the Green New Deal. By the way, according to a new study by Douglas Holtz-Eakin at the American Action Forum, the proposed policies in the Green New Deal would cost

between $51 trillion and $93 trillion over the next 10 years when added up together. Obviously, that is not sustainable. It is an astounding price tag. In fact, as Senator ALEXANDER said on the floor earlier today, future Presidents could actually use this emergency authority to tear down the very wall we are now constructing, and some Democrats running for President have said that is what they intend to do. That is what they want to do.

The President is using the National Emergencies Act to take funds away from a particular area of spending. It is called military construction funds. Only twice before have Presidents declared a national emergency in order to transfer military construction funds away from congressionally designated projects into other priorities. In both of those situations, we were at war, and the Secretary of Defense transferred the funds to support the war effort, and Congress did not object. Although there is a crisis at our southern border, we are not in wartime, and there are funds available to address border security.

The President wants to do more to address the crisis at the border, and I do, too, and he can do more. The President has available to him enough funds, right now, to begin building all the barriers he has requested without resorting to national emergency funds. I support his using those funds to get to the full $5.7 billion he requested for barriers on the southern border.

Here is how we could access it without using the national emergency. First would be the $1.375 billion appropriated by this Congress for the barriers. By the way, that is the most that has ever been appropriated in a fiscal year, ever, for the purpose of barriers. Second, he can access, as he intends to do, $601 million from the Treasury Forfeiture Fund. He could do that without a national emergency. Third, he could access funding through the DOD counter-drug account. He has said that he would like to access about $2.5 billion from that account, but he could actually access, under our laws that we have passed here—and we have given him authority to access—up to $4 billion. This adds up, as we can see, to over $5.7 billion—almost $6 billion—which is at the President's disposal without moving to the national emergency that he has invoked. My hope is that the President will take this approach.

I think using those funds is a better way to accomplish our border security goals. Precisely because the President does not need to declare a national emergency, these funds are far more certain. The $3.6 billion the President takes from the military construction projects is uncertain because these funds are likely to be tied up in constitutional litigation for months, probably years. By the way, the President has rightly acknowledged that.

Under the National Emergencies Act, Congress has given the President flexibility to address significant threats to our Nation's well-being, and we want him to have that flexibility. It was critical for President Bush to act quickly and decisively in the days after the 9/11 attacks. But short of that type of situation, it is imperative for the President to honor Congress's constitutional role to make policy and appropriate money. A national emergency declaration is a tool to be used cautiously and sparingly. That is why I cosponsored legislation, authored by Senator MIKE LEE, to amend the National Emergencies Act to ensure that Congress does have more control over these decisions in the future.

So in my view, the best resolution here is for the President to use that nearly $6 billion in funding that he has at his disposal to implement his plan, and, then, ask Congress for additional funding during the next appropriations cycle, which, by the way, begins on October 1 of this year.

This approach, again, has three distinct advantages. One, it would not set the dangerous precedent we discussed today. Second, the funds could actually get to the border because they will not be tied up in litigation. Third, it would fully protect important military construction projects in Ohio and around the country—including, by the way, funding for the National Air and Space Intelligence Center, or NASIC, at the Wright-Patterson Air Force Base; an automated, multipurpose machine gun range at Camp James A. Garfield; a fire station replacement at Mansfield Lahm Airport; a small arms range at Rickenbacker International Airport, and a main gate relocation project at Youngstown Air Reserve Station. All of those are things in the current fiscal year Military Construction appropriations bill that benefit Ohio. I am a strong supporter and advocate for Ohio's military facilities and our research institutions, and I will continue to work to ensure that our key military construction projects at these strategic facilities can continue to move forward.

I have worked on both ends of Pennsylvania Avenue. I have had the honor of being a Senator and a Congressman on this side, and I have worked for two White Houses. In fact, I was Associate Counsel to President Bush 41 in his White House Counsel's office. I know how hard it can be for the executive branch, the President, and Congress to find the balance that our Founders intended between the executive branch and the legislative branch, but our Founders drew a clear line on at least one thing: Congress, closest to the people, would have the power of the purse.

When President Obama bypassed Congress and took executive action to create new immigration policy back in 2012, I spoke out. I criticized him because of the constitutionality issue. I said I agreed with President Obama that our immigration system was—and, by the way, still is—broken. I agreed we needed to work together to fix it, but, I said that it doesn't mean that a President can ignore Congress, substitute his own judgment for the will of the people, and make up new laws on his own. That is what I said President Obama did. I believed it was wrong then.

I believe the President's use of the national emergency declaration to access already approved military construction project funding is wrong now. I support his goals. President Trump is right that we have a crisis, and I support his plans to secure the border, and he can fully fund it in a more reliable way. By the way, anyone who cares about getting that money to the border to build walls ought to want that certainty.

Each one of us in this body has sworn an oath to support and defend the Constitution of the United States. So today I will vote to support the disapproval resolution that is before us.

I know the President has the votes to pursue his approach. Even if the disapproval resolution passes, he can veto it, and his veto will be sustained. I know that, but I continue to hope that the President uses the funds he has available to him without creating a bad precedent, having some of the needed funds tied up in the courts, and taking money from important military projects.

President Trump is right about the crisis at the border, and the approach I outlined today would enable him to accomplish his policy objectives on the border and honor our Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I rise in strong opposition to President Trump's so-called emergency declaration of a crisis and invasion on our southern border, an attempt to misappropriate funds to build the President's border wall. The President's actions here are an affront to the constitutional separation of powers, our checks and balances, and the congressional power of the purse to set appropriation levels.

The very nature of how President Trump decided, finally, to declare a so-called emergency at our southern border shows that he, too, knows that there is no real national emergency at our southern border. President Trump himself admitted, in announcing this so-called emergency in the Rose Garden:

> I could do the wall over a longer period of time. I didn't need to do this, but I'd rather do it much faster.

It doesn't sound like a national emergency. We know that a medieval border wall would be a tremendously wasteful expenditure of resources, as opposed to smarter border security technology that would enhance screening at our ports of entry and specifically target transnational criminal operations smuggling contraband into the United States.

The Constitution gives Congress, not the President, the power of the purse.

Article I, section 9, clause 7 provides that ''No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.''

Article I, section 8, clause 1 provides that ''the Congress shall have Power To . . . provide for the common Defence and general Welfare of the United States.''

Additionally, the presentment clause of the Constitution requires that the President either approve or veto a bill, and it does not give him the power to change the text of a law or appropriation levels or to cast a line item veto for certain provisions.

The Supreme Court held in the line-item veto case of ''Clinton v. City of New York'' in 1998:

> There is no provision in the Constitution that authorizes the President to enact, to amend or to repeal statutes. . . . Our first President understood the text of the Presentment Clause as requiring that he either ''approve all the parts of a bill, or reject it in toto.''

The courts have regularly upheld the authority of Congress by statute—and not the President by fiat—to set funding levels. As the Supreme Court said in Hooe v. United States, in 1910, ''it is for Congress, proceeding under the Constitution, to say what amount may be drawn from the Treasury in pursuit of appropriations.''

The Ninth Circuit held in United States v. McIntosh, in 2016, that if the executive branch spends money in violation of appropriations law, ''it would be drawing funds from the Treasury without authorization by statute, and thus violating the Appropriations Clause.''

The Supreme Court held in the Office of Personnel Management v. Richmond, in 1990, that ''any exercise of a power granted by the Constitution to one or the other branches of Government is limited by the valid reservation of congressional control over funds in the Treasury.''

Beyond the legal challenges in court to the President's emergency declaration, Congress has a responsibility to act, as well, and rein in the President's abuse of power in order to maintain the proper separation of powers and checks and balances under our Constitution.

Former Republican Members of Congress recently wrote a powerful open letter to the current Republican Members of Congress on this issue. Signatories include former Members John Danforth, Mickey Edwards, Chuck Hagel, Jim Kolbe, Olympia Snowe, and Richard Lugar. Let me quote:

> Our oath is to put the country and its Constitution above everything, including party politics or loyalty to a president. . . . That is why we are coming together to urge those of you who are now charged with upholding the authority of the first branch of government to resist efforts to surrender those powers to a president.
>
> We offer two arguments against allowing a president—any president, regardless of party—to circumvent congressional authority. One is the constitutional placing of all lawmaking power in the hands of the people's representatives. . . . The power of the purse rests with Congress. . . . If you allow a president to ignore Congress, it will be not your authority but that of your constituents that is deprived of the protections of true representative government.

Let me just add that, in addition to what was said in that letter, we have made appropriations here. We expect those appropriations to be carried out. We are the representatives of the people. In my own State of Maryland, we have many military construction contracts on many of the military installations that could be put at jeopardy. Maryland is the proud home of major military installations, including Pax River, Indian Head, Andrews, Fort Detrick, Fort Meade, and the APG, or the Aberdeen Proving Ground. It is our responsibility to make those appropriations. If you let this emergency power go, that action could be compromised by the President of the United States, denying the people of this country their representative government.

Let me continue the letter from our former Republican colleagues. The letter continues:

> The second argument goes directly to the question each of you must face: how much are you willing to undermine both the Constitution and the Congress in order to advance a policy outcome that by all legitimate means is not achievable? The current issue—a wall on our southern border—has gone through the process put in place by the Constitution. It has been proposed by the President, it has been debated by Congress, and the representatives of the people allocated funding at a level deemed appropriate by Congress. We understand that there are many Members of Congress who disagree with the final funding compromise reached by a bipartisan group of legislators.

And it was approved overwhelmingly by Congress.

> To you, we ask this question: what will you do when a president of another party uses the precedent you are establishing to impose policies to which you are unalterably opposed? There is no way around this difficulty: what powers are ceded to a president whose policies you support may also be used by presidents whose policies you abhor.

The letter then concludes:

> We who have served where you serve now call on you to honor your oath of office and to protect the Constitution and the responsibilities it vested in Congress. We ask that you pass a joint resolution terminating the emergency declared by the President on February 15, 2019.

Congress should therefore take all necessary action to overturn this unlawful Presidential declaration on border security under the National Emergencies Act or other authorities. Instead of trying to raid funds that have been designated for critical military construction and environmental projects, the President should work with Congress to enact comprehensive reform.

The Senate should vote to uphold the Constitution and its legislative prerogatives, including the power of the purse, and to cancel the President's emergency declaration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, during the recent government shutdown, there were a lot of budget issues that were negotiated. It was a wide-ranging bill of over 1,000 pages, when it was all said and done, but the most contentious number in all of the negotiations circled around a barrier on our southern border in the highest drug trafficking corridor in the country.

The President requested $5.7 billion to build a barrier fence in 10 locations that the Customs and Border Patrol had identified as the top 10 points of illegal drugs entering our country. That study had been requested by Congress before they fulfilled that study of identifying the highest profiled drug trafficking corridors. They brought that back to Congress. The President then requested funding to build fencing in those areas of the highest trafficking areas.

His request was not for a 2,000-mile-long wall. It was only to replace some of the sections of the 650-mile-long barrier that already exists—areas that were old and ineffective—or to put new fencing in high drug trafficking areas.

In a highly partisan debate, Congress eventually appropriated $1.375 billion to DHS for the construction of additional barriers. It is not even close to what the President and what Customs and Border Patrol said they needed to protect the Nation and members of law enforcement.

During those negotiations, the President announced he would declare a national emergency if he didn't get the funds needed to secure the Nation. At that point, there were two options for people who don't want the President to secure our border. One was to include language in that appropriations bill before it was passed to prevent the President from declaring an emergency action and using any of the funds for that. The second one was to wait until after the bill was passed and declare a disapproval resolution to stop the President after the bill had already passed.

Those who oppose border security chose the second option—to fight the President after passage, which brings us to today.

After signing the funding bill to reopen the government, to deal with the humanitarian crisis, and the flow of illegal narcotics coming into our country, the President declared a national emergency in two areas. He has over 100 authorities; he declared it in two.

One was this. He wanted to replace some of the National Guard members with members of the Reserve. You have to declare a national emergency to call up the Reserve members. So his first request was to call up some of the Reserves to swap out some of the Guard members who were already serving at the border.

The second one was that in one of the accounts that deal with military construction, if needed, he wanted to tap into some of those funds. He was also very clear. There are four accounts

they would have access to. Three of them don't need an emergency declaration. Let me run through those.

The first is the $1.375 billion Congress allocated in the government shutdown, ending debate. There is no question that $1.375 billion has been approved by Congress.

There is a second fund where there is $600 million. It is in the Treasury Asset Forfeiture Fund. That fund specifically notes that those funds can be used for any reason for Federal law enforcement. It is very clear. It has wide discretion—any use for Federal law enforcement. There is no legal question that it can be used by Customs and Border Patrol or to do construction of any kind of barrier.

There is a third fund that already exists within the Department of Defense. There are $4 billion set aside in this fund, and it can be used for wide-ranging issues dealing with counternarcotics. There is no question the President can act on anything dealing with counternarcotics with that fund.

In fact, in that fund itself, there is specific language already included in that—and this is up to $4 billion—saying it can be used for construction of roads, fences, and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

Let me run through this. There is up to $4 billion the President can ask for that he doesn't have to ask for emergency authority at all on. That is counternarcotics, counterdrug smuggling. There are $600 million that have been allocated that the President can use because it deals with law enforcement. There is $1.375 billion that Congress also allocated. There is no legal question on any of those.

At the tail end of that, the White House has also said, after all three of those funds are expended—which, by the way, those three funds exceed the $5.7 billion the President says he needs—the President's request is, if we go through all of those, and we are not able to close that section down, at some future point, he wants to be able to access this other fund.

They have also made it very clear it would be past October. That would not even be in this fiscal year. So really the debate about funding is next year's issue, what is called the 2808 funding on military construction.

That leads us again to this. An emergency declaration really has two questions in it. Is it an emergency, and does the President have statutory authority to take this action? Those are the only two questions on the table.

Is it an emergency is in dispute. There are some folks who would say: I don't think what is going on at the border is an emergency. There are some folks—some in this Chamber and some in the other Chamber—who want to abolish ICE, dismantle a wall, and open the borders. Thankfully, that is a small group of people who do not see our national security as important.

For the vast majority of people, they do see an importance in Congress working on national security and securing our borders. Then we have the argument about how serious is this.

I have had folks who have said to me: It is really not that bad because we have individuals coming but not as high of a number as what it used to be. Twenty years ago, we even had more people crossing the border illegally.

That is not the question that is in front of us. The request from Customs and Border Patrol is specifically for the 10 areas with the highest drug trafficking along all of our southern border. That is the request.

The question is, Do we have an emergency dealing with illegal drugs crossing our border after the Customs and Border Patrol has said to us that we need barriers to slow down the flow of illegal drugs? Are they right or are they wrong?

Among those areas, right now the Rio Grande Valley sector is the highest area for movement of illegal drugs crossing into our country. It is 16 percent of the border miles, but it is 40 percent of the illegal border and illegal drug trafficking coming in.

Last year, just in that one sector, 550 pounds of methamphetamine were seized. This is not at the port of entry. This is between ports of entry, in that open area that doesn't have a fence. There were 550 pounds of methamphetamine seized. There were 1,500 pounds of cocaine and 64,000 pounds of marijuana that were seized in that one section without a fence.

The question is, Is that an emergency?

Last year, 70,000 Americans died from overdoses from drugs that came from and through Mexico—70,000. If we had any—any—issue in America where 70,000 people died, I can assure you this Congress would stand up and say we have an emergency, but, for some reason, there is a dispute on whether it is important we stop the flow of illegal drugs coming from Mexico into the United States. I don't think that should be in dispute.

To give an example of how fast this is changing and how much of an emergency this is, people would say: This has been going on for years. Why is it different now? Just in the last 2 years, between ports of entry—again, not at the ports of entry but in that open area where there is no barrier. Last year, our Customs and Border Patrol seized 388 pounds of fentanyl. That may not sound like much, but only a couple of grains of it—as in a couple of grains of sand—is enough to kill a person.

Fentanyl is highly addictive and an exceptionally powerful drug. It is 100 times more powerful than morphine. It is being laced into heroin and laced into cocaine. It is a mass killer.

Last year, almost 25,000 people in the country died from an overdose of fentanyl. Knowing it only takes two or three grains to be too much to kill a person, 388 pounds of it were seized between ports of entry along our border.

To tell you how it has accelerated, in 2 years, that is a 269-percent increase of fentanyl being captured between ports of entry.

Yes, we have an emergency. Yes, we have people dying in this country due to overdoses from fentanyl, heroin, cocaine, and methamphetamine, and the problem is not static. The problem is accelerating.

Last year, we had one of the highest—highest—rates of cocaine being picked up between ports of entry that has ever existed in our country.

Last year, U.S. Customs and Border Patrol seized a total of 11,000 pounds of methamphetamine coming across that border. That is the highest year ever of that drug coming across our border.

Undeniably, there is an emergency. The question is, Do we agree or disagree that when the statute says a President has the ability to do a construction, it means he can also construct a barrier? I believe it does.

We have those two questions. Is it an emergency, and does the statutory authority exist?

Interestingly enough, there are some of my friends who are adding a third question. Should the President have that authority?

That is a different question, and I understand that question. Interestingly enough, just a few hours ago, the President of the United States tweeted out—as he is infamous for doing—if Congress wants to discuss should a President have this authority in the future, I am open to discussing that, but that is not pertaining to today.

I think that is an interesting question we should address as a nation—what and how broad should an Executive authority be for a President—but the debate we have today is plain and simple. Is it an emergency, and, under current law, does the President have statutory authority?

My answer to both of those questions is yes.

I hope we continue to do drug interdiction, continue to work through the issues that need to be addressed, continue to do recovery, and continue to help people who are fighting through addiction because we need a healthy nation and also a secure Nation.

For those 10 areas that are the highest drug trafficking areas in the entire country, I hope we close those doors, and I hope we protect lives in the days ahead.

I am going to choose to oppose a resolution of disapproval today that says the President doesn't have the authority to protect the American people.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

The PRESIDING OFFICER (Mr. YOUNG). The Senator from Utah.

Mr. LEE. Mr. President, significant, the very first clause of the very first section of the very first article of the Constitution consists of the words ''all

legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and the House of Representatives.''

The Founding Fathers wasted no time in getting right to the heart of the matter, which is to say that the legislative powers within the Federal Government—that is, the power to make law within that Federal system—would themselves be exercised only by the branch of that government most accountable to the people at the most regular routine intervals.

This system of government, of course, involved three branches—one that would make the law, one that would enforce the law, and one that would interpret the law. That system of government relied, necessarily, and quite appropriately, on the fact that each branch of government would operate within its domain and would jealously guard the powers reserved to it, neither exceeding the powers granted it, nor accepting a diminution of those powers.

It is with that topic in mind that I rise today, reluctantly, in support of the resolution before us. When I speak—and some of my colleagues might even say nag—about our constitutional framework, when I insist that every word, every clause, and every principle does, in fact, matter, that we take oaths to support and defend the Constitution of the United States—we do so, in fact, right here on these very steps in this very Chamber when we start each term of office—we are dutybound to adhere both to the letter and to the spirit of that document, and we should do everything we can to avoid straying from it.

When I say some of these things, I am sometimes accused by some of naivete. I am told the old ''Schoolhouse Rock'' version of how a bill becomes a law works in theory, sounds nice in theory, but it is somehow passe in a vast, diverse, continental nation including about 230 million people today. I am told that given the responsibilities of the United States as now a vast, global, and economic power and Congress's inability to get things done, we have no choice but to accept and even encourage a system of government in which we are relegated to the backseat, to the backseat of the very things we were supposed to be doing in the first place, which is passing law, which is setting policy within the Federal Government.

This faux sophisticated analysis gets things exactly backward. It is the advocates of Executive overreach and judicial supremacy who are naive. They believe that given our Nation's size and diversity, only centralized government can rise above partisan, ideological, regional, practical differences, and unite us behind one policy, but this function now strangling this city and strangling this body, toxifying our political discourse, is directly related to this relentless march toward centralization. We think, somehow, that by pulling power into Washington and within Washington to the less-accountable branches of the government—that is, to the other two branches that are not this branch—we are governing. No, that is not governing. It is ruling.

With centralization, we empower and enrich the political and corporate classes at the expense of the working and middle classes. Centralization is not unity. It is surrender—surrender to exactly the kind of monarchical and abusive sort of government our Founding Fathers were trying to protect us from.

Political elites often reassure us and reassure each other that these deviations from constitutional norms are somehow victimless endeavors. No one cares about the process, they insist, but the Constitution is all process. That is the whole point is process. The Constitution doesn't resolve our political differences. It lays out the processes by which we are to resolve them. Brushing that process aside does not override our disagreement. It intensifies them. It escalates them—ratcheting up our politics into an all-consuming war of outrage and contempt.

My Democratic colleagues, some of them, at least, would have us believe this vote is about President Trump and President Trump alone. It is not. It is about much more than him. It is about much more than them. It is liberal elites' cult-like zeal for centralized power and their furious entitlement to wielding it that has led us to this very vote.

Now, I am not sure the Democratic Party cares immensely, as an institution, about Presidential overreach. I will leave that to them to decide and to exhibit. Some simply believe that abuse of constitutional power should be a one-way street.

In many instances, we have had Members of this body support previous Presidents of both political parties in engaging in acts of overreach. The real source of outrage here is not constitutionally mandated procedure but simply that we, as an institution, have voluntarily surrendered—we have relinquished our legislative power.

In this instance, this happens to be an exercise of power in an area in which many on the other side of the political aisle happen to disagree. To make clear, a border fence—a border barrier is a policy I support wholeheartedly and unequivocally. I agree with the need to secure our border. I agree with the President that there is a crisis unfolding on our border endangering men and women and children and endangering many of those who were most affected by the communities who are themselves in the direct path of these caravans. I support a border wall, and I encourage full congressional funding for it.

I think it is a tragedy and really something of an outrage that we haven't done that as a Congress. I support workplace enforcement of immigration laws. I support a biometric entry-exit system. I support the President's new ''Remain in Mexico'' policy that would keep asylum seekers south of the border while they await processing if they come from a noncontiguous country. I support the President's calling up military Reservists to support border agents in their dangerous and underappreciated work.

I support the President's invocation of 10 USC section 284(b)(7), which unequivocally authorizes him, in certain instances, relevant here and present here, to authorize funding for the construction of a fence along international boundaries as a means of combating the illegal international drug trade.

I support the President's use of up to $601 million from the Treasury Forfeiture Fund and $2.5 billion from the 284 fund I mentioned a minute ago, and I support the administration's work, on a diplomatic level, with Mexico to reduce the flow of migrants to the United States. I have supported all of these things in this administration, and I have for years—during this administration and prior to that—and I will continue to support these policies.

An emergency declaration, in accordance with the National Emergencies Act, in this instance, is different. The White House is asserting authority to spend money on projects and priorities in a manner not themselves directly authorized by Congress. Congress directly refused a request to appropriate the specific amount of funds we are dealing with.

At the end of the day, it is not the White House, it is not this President, it is not other Presidents who are at fault for this; it is, in fact, Congress. Congress was the institution that chose voluntarily to relinquish this power. Congress, as an institution, adopted and enacted legislation that was so broad as to take basically all the guardrails off the legislative process.

Congress, as an institution, in 1976, adopted the National Emergencies Act and said the President may declare an emergency with almost no standards, and then, once a President declares an emergency, there are some estimated 128 different provisions of law that can be looped in and made effective as a result of the declaration of that emergency.

At the time Congress did this, Congress left its foot in the door, saying that Congress unilaterally could veto the President's actions by passing a concurrent resolution not itself subject to Presidential veto. For reasons having to do with a subsequent Supreme Court ruling that occurred 7 years after the enactment of the National Emergencies Act in 1983, a case called INS v. Chadha—a case, coincidentally, argued by my late father. If he were here today, perhaps I would half-jokingly acknowledge that maybe he is in some ways to blame for this.

After the Supreme Court concluded in INS v. Chadha that the legislative veto was unconstitutional, Congress

went through and systematically removed, from about 450 statutes, the legislative veto provisions, replaced them with resolutions of disapproval, replaced them with a procedural mechanism whereby Congress may signal its disapproval, but that disapproval is still subject to signature or veto by the President.

This is where we have a problem because that converts, effectively, legislative power by handing it over to the Executive and then leaves the Congress without an opportunity to signal how it feels about this beyond adopting a resolution of disapproval, which is itself subject to a Presidential veto.

That is why I am concerned about this. I have concerns about this legal framework. This is not about the President. This is not about my disagreement with or disapproval of the President or his approach to border security or his desire to build a barrier along our southern border. I think all those things need to happen.

This law is wrong. It is not President Trump's fault. It is Congress's. We need to change it. I look forward to working with my colleagues on both sides of the aisle to reform the National Emergencies Act. We need to get this done. This is an issue that is neither Republican nor Democratic, neither liberal nor conservative. It is simply an American issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. TILLIS. Mr. President, I ask unanimous consent that I have up to 5 minutes to make comments on the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TILLIS. Mr. President, a few weeks ago, I was talking with my staff, in advance of the President issuing the emergency order, and I told them I wanted to put together an op-ed to really express two things; one, my concern with the manner in which funds were being appropriated but also that there is a real crisis we have to address. In fact, I am very sympathetic to what the President did, and the only question is how he went about doing it.

I received a lot of feedback over the past few weeks, but what it allowed me to do was to engage in a discussion with some of my colleagues here and with the White House over the past couple of weeks that have been very productive.

My main concern with this Executive action is future potential abuses. I have a concern with the Executive action the President took, the emergency order, and that is why I voiced it, but I am sympathetic to what he was trying to do.

I think we can view this as an opportunity—I thought we could view this as an opportunity where maybe we could have a discussion about the National Emergencies Act and potentially make a real difference.

So today, I come to the floor to say that I do not intend to vote for the resolution of disapproval, and here is why. A lot has changed over the last 3 weeks—a discussion with the Vice President and a number of senior administration officials, a lot of collaboration with my colleague from Utah. There is serious discussion about changing the National Emergencies Act in a way that will have Congress speak on emergency actions in the future.

The White House has been very gracious and I should say very patient, given my initial position, in working with us and as late as today having the President make a statement that he is willing to work with us. I suspect that we will hear more from the President.

We also heard today from Leader MCCONNELL. I was trying to remember—I don't know whether it has been done before—Leader MCCONNELL took to the floor this morning and said that he encourages this discussion through the regular order and working on a bipartisan basis to move a measure forward through the Homeland Security Committee and to this floor for a vote. I, for one, am going to work on that and hopefully get consensus on a bipartisan basis after the temperatures have cooled and we can move on.

In the meantime, I think we have to recognize that we have a crisis at the border, with 76,000 people crossing illegally in February alone. We have narcotics flooding our country, poisoning our children and adults of all ages. A lot of it has to do with the porous border and the seemingly unending and spiraling-out-of-control crossings.

One of the challenges that I have to communicate to my constituents, and I am sure everyone does, is how do I reconcile—first, I should say that my colleagues on this side of the aisle who will vote for the resolution of disapproval I think to a person also recognize that there is a crisis. I respect them for their decision; it is just not a decision that I can take.

Over the course of the next few months, I look forward to working with the administration to talk about boundaries that we are very close to getting agreement on and making changes to the National Emergencies Act that will make sense.

The fact that this President is prepared to transfer power back to the article I branch—by his statements, either publicly or through his administration—is extraordinary. That we have a leader, with a Republican down the street, willing to move this through the regular order is extraordinary.

For those reasons, I will be voting against the resolution of disapproval, and I encourage my colleagues to do the same.

Thank you.

Mr. GRASSLEY. Mr. President, today, I am voting against the resolution to end the national emergency. Make no mistake: Our Nation is facing a prolonged and worsening security and humanitarian crisis on our southern border. Lethal drugs are flooding across the border at an alarming rate. Just last year, enough fentanyl to kill 88 million Americans was seized by border patrol agents between our ports of entry. We are also witnessing unprecedented levels of illegal immigration and are on track for the highest level of illegal immigration in more than a decade. That means more human trafficking, more forced labor, and more exploitation of people along the dangerous journey to the United States. Failures by Congress to adequately address our immigration and border security issues have only exacerbated this crisis.

Here is just a sample of the data from our Federal authorities. The total volume of illegal immigration is increasing. Illegal immigration is on pace to exceed the highest level in more than 10 years. There has been a 338 percent increase in family units from the Northern Triangle apprehended thus far in fiscal year 2019 compared with same period in fiscal year 2018. There was 54 percent increase in unaccompanied minors apprehended thus far in fiscal year 2019 compared with same period in fiscal year 2018.

Additionally, drug seizures are increasing between ports of entry. In fiscal year 2018, U.S. Border Patrol intercepted 388 pounds of fentanyl between our ports of entry. That is enough to kill 88 million Americans; that is right, 88 million Americans. Fentanyl seizures increased 73 percent between fiscal year 2017 and fiscal year 2018. Heroin seizures also increased 22 percent between fiscal year 2017 and fiscal year 2018. Methamphetamine seizures increased 38 percent between fiscal year 2017 and fiscal year 2018.

As I have said repeatedly, even though the President is using the authority given to him by Congress, I share my colleagues' concerns that too much authority has been delegated to the executive branch. In 1976, Congress gave the President the authority to declare national emergencies, so we shouldn't be surprised when he seeks to use it, just as others have done. For this reason, I will continue working to pass meaningful legislation, like the ARTICLE ONE Act, to reclaim congressional power from the executive branch and improve congressional oversight of the National Emergency Act. I encourage my colleagues to join in this effort, which takes real action, as opposed to symbolic show votes that don't address the root of the problem.

Mr. DURBIN. Mr. President, the President often claims that he knows how to make deals, but when it comes to the border, he seems uninterested in a good deal, a deal to provide effective border security, and he is hurting our military in the process. This week's vote to repeal the President's national emergency is a vote to restore sanity to our border security debate and restore Congress's constitutional power of the purse.

We all remember Donald Trump's idea that we need a 2,000-mile concrete wall from sea to shining sea and his claim that Mexico would pay for it. He said it some 200 times on the campaign trail and in the Oval Office. In December, after asking and failing to receive funding from Congress for this wall, the President said, ''I am proud to shut down the government for border security.''

What followed was the 35-day Trump shutdown, the longest government shutdown in U.S. history. It cost our country $11 billion, according to the Congressional Budget Office. After the President finally agreed to reopen the government, Congress provided funding to the Department of Homeland Security for smart and effective border security measures, including technology and additional Customs personnel. We did this because the President's own administration has stated that the vast majority of lethal narcotics that cross our southern border come through legal ports of entry.

But within hours of signing this bill, President Donald Trump announced that it wasn't enough. The President went on television to announce that he was declaring a national emergency over the border, and he announced that he was taking $6.5 billion from our military to build it.

Presidents of both parties have declared national emergencies. Each time, it was done in response to a specific crisis, in order to unlock certain statutory authorities. President George W. Bush declared a national emergency after the 9/11 terrorist attacks. In the 1970s, President Carter declared a national emergency as it pertained to Iran. Presidents of both parties have declared and updated emergencies relating to instability in Syria.

What Presidents did in those situations varied—sometimes levying sanctions, sometimes seizing assets—but each time, it was accepted on a bipartisan basis as necessary, legitimate, and in defense of our national interests. What President Trump did was different. For the last 2 years, he has struggled to fulfill a campaign promise, so when he didn't get his way, he created a fake crisis and declared a phony emergency.

The good news is that the American people aren't buying it. A poll conducted earlier this month by Quinnipiac University found that 66 percent of voters oppose the President's end-run around Congress and oppose his fake emergency declaration.

Newspapers around the country have concluded the same thing. The Tampa Bay Times editorial board said it clearly a few days after the President's announcement, ''Border wall is no emergency.'' In their words, ''It is not a national emergency just because President Donald Trump didn't get his way.''

West Virginia's Herald Dispatch newspaper concludes much the same, urging the President to ''take a realistic look at whether the wall is needed or if it's simply an unnecessary quest to satisfy his ego.'' That is common sense, but then common sense seems to be in short supply in this White House.

Not only is the President declaring a fake emergency, but he is using that crisis to take money. The President has told us that he will take $6.5 billion that Congress gave to our troops and spend it instead on a wall on the southern border. He is proposing to delay or cancel $3.6 billion in military construction projects—projects that our military told Congress it needed less than a year ago—and divert it to his wall.

Last Friday, Senator SCHATZ and I sent a letter to Acting Secretary of Defense Patrick Shanahan demanding to know which projects have been deemed, due to political interference, as less important than the President's wall. There are almost 400 military projects at risk. They cover 43 States, the District of Columbia, Guam, Puerto Rico, and more than a dozen foreign countries, including strong U.S. allies like Japan and the United Kingdom.

The President will have to cancel or postpone approximately 20 percent of these projects for his wall. What are we talking about?—$800 million for essential training facilities like National Guard Readiness Centers, simulators, and firing ranges in Alaska, Arizona, Colorado, and Montana, to name a few; $1.4 billion worth of maintenance-related projects, such as aircraft hangars, and vehicle maintenance shops in Arkansas, Indiana, Missouri, Oklahoma, and elsewhere; $1 billion worth of projects for medical and dental care facilities, schools for military families, military barracks and dining facilities in Arizona, Missouri, Texas, and beyond.

For instance, the Marine Corps needs a new rifle range at Parris Island, SC. This base trains 20,000 new Marine recruits every year. Also on the list is new training center at Fort Bragg, NC, to provide top-notch training and prevent injuries among our special operations forces. They are using old warehouse right now. Are we really going to tell our military that their needs are being put on hold so the President can fulfill his campaign promise to build a wall? I hope those aren't our priorities.

In addition, the President also announced that he would take $2.5 billion in other military funds for his wall. The Pentagon tells me that they may take some of this money from excess military pay and pensions. Meanwhile, each of the military services—Army, Air Force, Navy, and Marines—have met with me to discuss a long list of urgent, last-minute needs, but with $2.5 billion being diverted for the wall, none of those leaders were able to say whether or not they would get the funding they need.

Last year, Hurricane Florence damaged 800 buildings at Camp Lejeune, New River, and Cherry Point, causing $3.6 billion in damage from wind and flood waters. A similar hurricane leveled Tyndall Air Force Base, in Florida. Both of them could use billions right now for repairs.

I am also told that the Navy needs hundreds of millions of additional dollars for unexpected ship maintenance. We can't afford not to make sure our sailors are safe on deployment. The National Guard has 2,100 personnel on the border, but it is starting to run low on its pay account. Unless DOD finds $150–300 million this year, the Guard will have to cut short its summer trainings in all 50 States to pay for this.

My subcommittee has identified almost $5 billion in military priorities that need attention now, but after the President takes $2.5 billion to pay for his border wall, which priorities will get cut?

This week, Republicans and Democrats in the Senate should join the House in rejecting the President's phony emergency declaration, and the Senate should reject any effort by the President to take money from our troops to build the wall.

Mrs. FEINSTEIN. Mr. President, I rise today to speak on the resolution of disapproval before us that would terminate President Trump's phony national emergency.

President Trump's national emergency declaration, which he attempts to justify using falsehoods about immigration and the Southern border, presents a serious threat to the separation of powers and the rule of law.

First I would like to speak about how there really isn't an emergency at the border, then I would like to get into the constitutional problems with the President's actions.

While illegal border crossings do occur, all of the numbers refute President Trump's claim that there is a crisis at the border. Those claims simply don't hold up.

Unauthorized border crossings have been at their lowest levels in years.

In 2000, border agencies reported more than 1.6 million apprehensions.

In 2017, the agency reported just 303,916 apprehensions, one-fifth of the level just two decades ago.

It is clear that investments in border security have worked. Those include additional border patrol agents, fencing in urban areas, ground sensors, drones, and increased use of E-Verify.

In addition, since 2014, two-thirds of undocumented immigrants have come to the United States legally but then overstayed their visas, more than 500,000 per year. A border wall would do nothing to curb visa overstays.

Dangerous criminals aren't overrunning our country.

Immigrants commit fewer crimes than native-born citizens. Data collected in Texas show the arrest rate for undocumented immigrants in 2015 was 40 percent lower than for the native-born population.

Additionally, many immigrants are actually legally seeking asylum through the process already in place. There are often families with young

children fleeing persecution and violence in Central America who have a legal right to petition our government for asylum.

Under current law, they can apply for asylum by presenting themselves at a U.S. port of entry. Unfortunately, by focusing on a border wall instead of investing in modernizing entry points, President Trump's policies force many of these families to turn themselves into Border Patrol in between ports and ask for asylum or wait for long periods in Mexico in dangerous conditions.

The timing of the President's declaration also undercuts his claim that this is an emergency.

President Trump kicked off his Presidential campaign nearly 4 years ago by claiming that immigrants were bringing drugs and crime to the United States. Despite this, he decided to wait until more than halfway through his term to declare his emergency and only then after Congress refused to give him the money he wanted.

If there were truly an emergency, the President should have declared it on day 1. He did not.

Trump also emphatically rejected a bill that would have given him $25 billion for a border wall in exchange for providing Dreamers a path to citizenship. Clearly, there was no emergency then either.

But the most clear statement that there is no emergency came from President Trump himself, who after declaring the emergency, said this in a Rose Garden speech: ''I didn't need to do this, but I'd rather do it much faster.''

We shouldn't judge the President's attempt to divert appropriated funds to his border wall through a partisan lens, but rather view it as a radical departure from our constitutional separation of powers.

Through its appropriations clause, the Constitution provides Congress, not the President, with the power of the purse. Congress decides how to spend taxpayer dollars.

By providing Congress with this power, our Founding Fathers imposed a key check on the President, a check that President Trump is trying to do away with.

Congress exercised its power of the purse last month in a spending bill to keep the government open by including $1.35 billion for border barriers, rather than the $6 billion the President sought for a border wall.

The Constitution gave the President two options at that point: sign the bill or veto it. President Trump tried to create a third path, saying he would sign the bill but still divert additional Federal dollars to the wall, his so-called emergency.

In essence, the President decided to violate the Constitution so he could more quickly fulfill a campaign promise to build his border wall.

One of the ironies of President Trump's decision to divert funds to a border wall that won't stop drugs or crossings is the pots of money from which he is drawing.

First, the White House said it would pull $2.5 billion from a counter-narcotics program that is used to support international law enforcement interdiction and apprehension efforts, as well as to fund National Guard support for State drug law enforcement operations, including in California.

Second, the White House said it would take another $3.5 billion from military construction projects.

These are programs that actually help improve our national security, and the President wants to take billions of dollars from them to build a wall—incredible.

The long-term danger here is that President Trump will set a precedent that a Commander in Chief can interpret the Nation's laws and the Constitution any way he wants. This can't be allowed to stand.

The National Emergencies Act of 1976 does allow the President to reprogram funds appropriated by Congress in case of a national emergency, like a hurricane or earthquake, but it is clear that the law was never intended to be used to explicitly overrule the will of Congress, which is how President Trump wants to use it.

During the Korean war, the Supreme Court struck down a similar attempt by President Truman to use emergency powers to seize privately owned steel mills, an action inconsistent with laws passed by Congress.

Even if there were an emergency—which there isn't—President Trump still wouldn't have the authority to reprogram Federal funds in this context.

Specifically, the statute that President Trump relies on, 10 U.S.C. §2808, allows the President, in a national emergency that ''requires the use of the armed forces,'' to spend unobligated military construction funds for military construction projects ''that are necessary to support . . . use of the armed forces.''

The situation at the border does not ''require the use of the armed forces,'' and it is unclear how the wall would be ''necessary to support'' them.

If anything, the President's use of the military at the border to enforce the law raises additional questions under the Posse Comitatus Act, which has prohibited the use of the Armed Forces for domestic law enforcement for well over a century.

In sum, President Trump is relying on an incredibly frail legal argument to justify this blatant power grab. It is incumbent upon Congress to hold this President accountable as he attempts to seize one of our most important powers.

I urge my colleagues to support this resolution of disapproval and cancel President Trump's phony emergency.

Thank you.

The PRESIDING OFFICER. The Democratic leader.

Mr. SCHUMER. We have 1 minute remaining, I think. I ask unanimous consent to speak in leader time.

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

Mr. SCHUMER. Thank you, Mr. President.

Today, the Senate will vote on the resolution to terminate the President's declaration of a national emergency.

Let me begin with a quotation.

> Revelations of how power has been abused by high government officials must give rise to concern about the potential exercise, unchecked by the Congress or the American people, of this extraordinary power. The National Emergencies Act would end this threat and ensure that the powers now in the hands of the Executive will be utilized only in a time of genuine emergency and then only under safeguards providing for congressional review.

Let me repeat that. ''[T]he powers now in the hands of the Executive will be utilized only in a time of genuine emergency.'' That is from the special committee report on the National Emergencies Act, which was passed decades ago.

The bottom line is very simple. We all know the other arguments—that this is not an emergency. The President himself said so. He said he didn't have to do this if he didn't want to. In previous emergencies, it was either apparent, like 9/11, or it was a disease or some other immediate disaster, and there was a long explanation as to why. We have gotten no explanation as to why this is an emergency.

The second reason, of course, is the money that might be taken away from the military—our brave men and women in uniform not getting the dollars they need—for this wall.

The third, of course, is that the President couldn't get his way through Congress even when we had 2 years of Republican leadership in the House, Senate, and White House, couldn't get his way this time, and is now simply going around Congress to declare an emergency.

But those reasons pale for the most important reason. This is a momentous day. The balance of power that the Founding Fathers put in place, so exquisitely designed, has served this Nation extremely well for over two centuries. That balance of power was in large part motivated by the fear of an overreaching Executive. The patriots had just fought King George. They knew what it was like to have an Executive who would go too far, and they put in precautions to make sure that didn't happen.

Today, we are being asked, in a way that we haven't been asked in decades, maybe even longer, to change that balance of power. And make no mistake about it—it will set an awful precedent for the future, no matter who is President. It will change it. If a President can invoke an emergency because he didn't get his way or she didn't get her way, without real cause, without a real emergency, woe is our Republic in many ways—the ways the Founding Fathers feared.

I know this is a very difficult vote for my friends on the other side of the

aisle—much more difficult than ours. We all know that the President is extremely popular in the Republican Party for maybe a few good reasons—I would say mostly bad, but he is. We know that he has been vindictive, contemptuous, calling out people who oppose him. So it is not an easy vote. I take my hat off to those Members on the other side of the aisle who have let principle rise above party, who understand what the Constitution requires this afternoon and have agreed to vote against this emergency.

I would plead with those others who haven't made up their minds to look at this moment in history. This is not an immediate moment. You can be for the wall or against the wall, you can think that what we are doing at the southern border is inadequate, but that issue pales before the issue before us; that is, how far an Executive can reach when Congress does not want to do what that Executive wants.

This is a crucial moment. This is a moment historians will look back on. This could be a moment that changes the fundamental balance of power in our government. So I would ask my colleagues—I would really plead with my colleagues. I understand the politics are difficult—much harder for you than for me—but our Nation, our Constitution, the beauty of this government demands that we rise to the occasion this afternoon. Please join us in rejecting this emergency and keeping our government with the same balance of power that has served us so well for two centuries.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, all time has expired.

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

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

Mr. CARDIN. 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.

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—59

Alexander	Feinstein	Moran
Baldwin	Gillibrand	Murkowski
Bennet	Harris	Murphy
Blumenthal	Hassan	Murray
Blunt	Heinrich	Paul
Booker	Hirono	Peters
Brown	Jones	Portman
Cantwell	Kaine	Reed
Cardin	King	Romney
Carper	Klobuchar	Rosen
Casey	Leahy	Rubio
Collins	Lee	Sanders
Coons	Manchin	Schatz
Cortez Masto	Markey	Schumer
Duckworth	Menendez	Shaheen
Durbin	Merkley	Sinema
Smith	Udall	Whitehouse
Stabenow	Van Hollen	Wicker
Tester	Warner	Wyden
Toomey	Warren	

NAYS—41

Barrasso	Ernst	McSally
Blackburn	Fischer	Perdue
Boozman	Gardner	Risch
Braun	Graham	Roberts
Burr	Grassley	Rounds
Capito	Hawley	Sasse
Cassidy	Hoeven	Scott (FL)
Cornyn	Hyde-Smith	Scott (SC)
Cotton	Inhofe	Shelby
Cramer	Isakson	Sullivan
Crapo	Johnson	Thune
Cruz	Kennedy	Tillis
Daines	Lankford	Young
Enzi	McConnell	

The joint resolution (H.J. Res. 46) was passed.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 20.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Bridget S. Bade, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 Bridget S. Bade, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, David Perdue, Roy Blunt, John Cornyn, Joni Ernst, Lindsey Graham, John Boozman, Mike Rounds, Thom Tillis, Steve Daines, James E. Risch, John Hoeven, Mike Crapo, Shelley Moore Capito, John Thune, Pat Roberts, Jerry Moran.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

RECOGNIZING THE DUTY OF THE FEDERAL GOVERNMENT TO CREATE A GREEN NEW DEAL—Motion to Proceed

Mr. MCCONNELL. Mr. President, I move to proceed to Calendar No. 27, S.J. Res. 8.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 27, S.J. Res. 8, a joint resolution recognizing the duty of the Federal Government to create a Green New Deal.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 proceed to Calendar No. 27, S.J. Res. 8, a joint resolution recognizing the duty of the Federal Government to create a Green New Deal.

Mitch McConnell, David Perdue, John Boozman, Johnny Isakson, John Cornyn, Pat Roberts, Mike Crapo, Thom Tillis, Mike Rounds, Roger F. Wicker, John Thune, Richard Burr, Steve Daines, John Hoeven, John Barrasso, James E. Risch, Roy Blunt.

Mr. MCCONNELL. I withdraw the motion to proceed.

The PRESIDING OFFICER. The Senator has that right.

SUPPLEMENTAL APPROPRIATIONS ACT, 2019—Motion to Proceed

Mr. MCCONNELL. Mr. President, I move to proceed to Calendar No. 15, H.R. 268.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 15, H.R. 268, a bill making supplemental appropriations for the fiscal year ending September 30, 2019, and for other purposes.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The 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 proceed to Calendar No. 15, H.R. 268, making supplemental appropriations for the fiscal year ending September 30, 2019, and for other purposes.

Mitch McConnell, David Perdue, John Boozman, Johnny Isakson, John Cornyn, Pat Roberts, Mike Crapo, Thom Tillis, Roger F. Wicker, John Thune, Richard Burr, Steve Daines, John Hoeven, James E. Risch, Roy Blunt, Susan M. Collins, Lisa Murkowski.

Mr. MCCONNELL. I ask unanimous consent that the mandatory quorum calls for the cloture motions be waived.

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

The Senator from Nebraska.

NEBRASKA'S BOMB CYCLONE

Mrs. FISCHER. Mr. President, I would first like to address the harsh