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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable CINDY HYDE-SMITH, a Senator from the State of Mississippi.

### PRAYER

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

Let us pray.

Eternal Father, the center of our joy, bless our lawmakers with the peace and wisdom needed to lead in our challenging world. Give them eyes to discern and understand the intricate complexity of this turbulent season. Lord, guide our Senators to the right paths. Lead them beside still waters. Restore their souls. Let them lack nothing, for You can keep them whole. Overflow their cups with gentleness, care, and understanding for the people they represent. Let them fear no evil and take courage in adversity, for You continue to lead them with Your all-knowing right hand.

We pray in Your everlasting Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 10, 2019.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable CINDY HYDE-SMITH, a Senator from the State of Mississippi, to perform the duties of the Chair.

CHUCK GRASSLEY,  
President pro tempore.

Mrs. HYDE-SMITH thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SENATE LEGISLATIVE AGENDA

Mr. MCCONNELL. Madam President, as we enter the final weeks of 2019, two things seem to be true here in Congress. No. 1, our Democratic colleagues, particularly over in the House, seem eager to pour the vast majority of their time and energy into their 3-year-long journey to impeach the President the American people elected. As a consequence, No. 2, Congress has yet to fulfill a number of its core governing responsibilities for this year.

At this late date, several crucial, must-pass bills remain undone. For months, my fellow Republicans and I have been stressing the need for productive, bipartisan cooperation on these pressing subjects: funding for the Federal Government, Defense appropriations—the money for our troops—and the National Defense Authorization Act. Yet, for months, our calls for the Democrats to join us in serious negotiations have gone largely unanswered as the Democratic leadership has opted for a different political playbook—to obsess over impeachment and obstruct this core business that we must do every year.

Earlier this year, the House Democrats pushed through what we believe was their first purely party-line NDAA that either Chamber has ever passed in the 58-year history of the legislation. This is the legislation that puts forward Congress's priorities for equipping, training, and maintaining the greatest fighting forces in the world. It has never been used before as a purely partisan weapon—that is, not until this year. Reassuringly, the past few days have finally brought an end to bipartisan talks and produced a compromise NDAA. The end result should be able to pass both Chambers and earn the President's signature. Believe me, it will not come a moment too soon.

The NDAA authorizes resources to keep crucial military installations—like Fort Campbell, Fort Knox, and the Blue Grass Army Depot in Kentucky—running smoothly. It is similarly important to facilities in many of our colleagues' home States as well. Nationally, of course, it directs readiness efforts, prioritizes research and development programs, and enacts vital reforms at the Pentagon.

I look forward to sending the final, bipartisan product by the conference committee to the President for his signature soon. In addition to that authorizing legislation, Congress, of course, needs to actually appropriate funds for our national defense and for all other functions of our Federal Government.

Just a few months ago, when leaders on both sides put their names to a bipartisan-bicameral roadmap for the appropriations process, it looked as though we might keep partisan disputes out of this process and finish up the appropriations with time to spare. Unfortunately, our Democratic colleagues decided that picking fights with the White House was a higher priority, and we spent the autumn being mired in disputes over exactly the kinds of poison pills and Presidential authorities the Speaker and the Democratic leader had previously promised

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



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would be off limits. Yet, as we speak, Chairman SHELBY and appropriators in both Chambers are trying to bring months of near stalemate to a close. Last month, a bipartisan-bicameral agreement was reached on subcommittee allocations, and talks continue this week on outstanding issues.

Thanks to the months of delay, we have a long way to go and a very short time in which to do it. I hope that our Democratic colleagues can finally stick to the terms of the budget agreement and keep partisan policy fights out of this process. That is the only way both Chambers will have a chance of being able to vote on funding bills before the end of this year.

That brings us to the USMCA. For the better part of the past year, President Trump's landmark agreement to update North American trade policy has been languishing as Speaker PELOSI and the House Democrats have indulged further and further in impeachment. There are 176,000 new Americans jobs that have sat waiting on ice as the Speaker has offered lukewarm assurances month after month that her caucus is hoping to be "on a path to yes." This week, at long last, it appears that the House Democrats may finally be willing to take action for American workers and job creators and let the House vote on the President's deal. I was pleased to hear that U.S. negotiators, led by Robert Lighthizer, were to head to Mexico today to finalize the details on this important win for the American economy. I hope this forward momentum continues.

So that is the state of play. There is a lot left to do for the American families we represent if our Democratic colleagues will simply allow it, and it will certainly take a great deal of cooperation and consent right here in the Senate if we intend to consider and pass these measures before the end of the year.

Obstruction and stalemate have brought us to the eleventh hour. I hope that, now that we are here, both Chambers will be able to set aside the Democrats' impeachment parade long enough to get the people's business finally finished.

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#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

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#### EXECUTIVE SESSION

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#### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of Patrick J. Bumatay, of California, to be United States Circuit Judge for the Ninth Circuit.

Mr. McCONNELL. Madam President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

#### INSPECTOR GENERAL REPORT

Mr. SCHUMER. Madam President, for years, President Trump has speculated wildly about a "deep state" conspiracy against his Presidency based on the claim that the FBI opened an investigation into the President's campaign with political bias, with the explicit purpose that they were out to get him.

Yesterday, the Department of Justice inspector general released a report that puts this conspiracy theory to bed. The report conclusively debunks the baseless conspiracy that the investigation into Mr. Trump's campaign and its ties to Russia originated with political bias. In fact, the report quotes the FBI Deputy General Counsel as saying that "the FBI would have been derelict in our responsibility had we not opened the case."

Let me repeat that from the No. 2 counsel at the FBI. "The FBI would have been derelict in our responsibility had we not opened the case."

Donald Trump commits so many wrongs, and when people call him on it, he blames somebody and comes up with a conspiracy. And the most amazing thing is that not just his appointees but these Senators in this Chamber—almost too many of them—just echo those crazy theories designed to divert us from the truth.

The inspector general of the Department of Justice, Michael Horowitz, has been praised for years by Members on both sides of the aisle for his integrity and for his fairness. There is no reason to doubt the report's conclusion. He has never been accused of bias before.

Attorney General Barr and LINDSEY GRAHAM praised Mr. Horowitz, but all of a sudden, they are casting aspersions on him and his report. Only political actors doubt this report—political actors like Attorney General Barr and now, it seems, as well, his handpicked Federal prosecutor, John Durham.

Attorney General Barr has all too often acted on behalf of the President's interests rather than as a neutral law enforcement officer. He almost seems a hatchet man on a political campaign rather than an Attorney General—an august position—following the rule of law and trying to shield that office from politics whenever possible. Instead, Barr loves to jump into the political pool of muck.

I was skeptical when Mr. Barr appointed John Durham simply because

Attorney General Barr had picked him. He does almost nothing in these sensitive areas that are not political. But you had some hope. Durham, some said, had a good reputation. Well, yesterday, Durham's statement confirmed our suspicions that he is not a non-political actor. No prosecutor worth his salt would release a political statement like he did while conducting an investigation. Because of issuing that statement, Durham has lost a great deal of credibility even before he issues his report. No one who is thinking of these things down the middle is going to think Durham is a dispassionate, nonpolitical observer because he has already shown himself to be, in a certain sense, a henchman of Mr. Barr and his political activities.

To emphasize the broad acceptance of the IG report, FBI Director Wray, appointed by President Trump, embraced the report.

When Director Wray asked whether he thought the FBI targeted the Trump campaign, he said I do not. And for that, not surprising, but still rather, again, low, shallow, and disgusting, President Trump lashed out this morning at the FBI Director, saying, "I do not know what the current Director of the FBI was reading, but it wasn't the one given to me."

President Trump, if you actually read the report, you would understand exactly what FBI Director Wray was talking about, and you would understand exactly why it was his duty to defend his department when they behave on a nonpolitical rule of law basis.

My friends, it is a sad state of affairs when truth tellers have no place in Trump's Washington. Anyone inside the Trump administration willing to speak truth to power—Secretary Mattis, DNI Director Coats, even Chief of Staff Kelly towards the end, and so many others—cannot survive the President's insistence on blind loyalty, cannot survive the fact that the President makes them tell lies and mistruths to continue to serve him.

If you do not act in febrile obeisance to President Trump, he will turn on you, so this quality of people in this administration is getting lower and lower and lower. Top-notch people and the ability to govern and make smart decisions and the ability to care about the truth often go hand in hand, but if you care about the truth, you are out, and so Trump loses quality people in his administration. And the only people who survive are willing to bow down to Donald, who will do just what he wants and says, even when they know it is false.

And that is why this administration is so erratic, so disjointed, so ineffective, and, at this time, so unpopular with the majority of the American people. The American people know that Mattis is a fine man. They know that Wray is a fine man. They know that they are the kind of people that, if Trump says tell a lie, they won't. But,

unfortunately, the people in this administration who remain are willing to do just that. And that said, as I said, it is a very sad state of affairs and one of the reasons this administration has such a difficult relationship with the truth.

The President conjures fictions, buys into baseless conspiracy theories told by known buyers on FOX News or somewhere else, and then anyone who contradicts him earns his scorn. Contradict him enough, if you are in the administration, you lose your job.

Now, more worry. Amazingly, this afternoon, the President and Secretary of State Pompeo will meet in secret with Russian Foreign Minister Sergei Lavrov. It shows a blinding disregard with what is going on in Congress and the world right now. Russian intelligence has been pushing the baseless theory that Ukraine interfered in the 2016 elections, not just Putin, as a way to divide the West and defend Putin.

Certain Republican Senators have stunningly repeated that falsehood around these corridors, and now, President Trump and Secretary of State Pompeo are meeting with the Russian Foreign Minister in secret. What new conspiracies are they cooking up with Lavrov today? I worry. The President has been so unable to articulate a defense of the facts uncovered in the House impeachment inquiry that he has resorted to one conspiracy after the next to explain his conduct. His allies, including Members of the Senate Republican Caucus, have elevated several of these theories.

Here in the Senate, certain members of the Grand Old Party are forming their own conspiracy caucus. Any crazy conspiracy, whether launched by Putin or some wild-eyed crazy conspiracy theorist, who manages, of course, all the time to get on FOX News and have his story or her story repeated, it is something that my colleagues just repeat even though it is clear they are false, and they know they are false.

ANGUS KING had a great op-ed last week in USA Today, which I commend to every one of my colleagues. It basically said, if what the impeachment proceeding has found is false, then where are the Trump people to refute it? Not to come up with some irrelevant conspiracy theory and bring this one and that one into it that has nothing to do with it, but actually refute the facts, where is that?

President Trump has not refuted a single fact that the impeachment inquiry has found. None of his people have been willing to come forward who would have knowledge to refute those facts if those facts were false. And so they try to create a shiny object, a diversion, and, unfortunately, too many of the news media on the right will spend time on that diversion and repeat Trump's claim that the actual facts are false.

This is the beginning of the end of the democracy, when we can't have

truth—we can disagree on the outcome of those facts, but we can't have truth of the fact—and everything is fake news, particularly those from the right who don't like the truth. When conspiracy theories that have no basis in fact govern, our democracy is at risk. It is one of the main reasons I think so many Americans believe, whatever their ideology, that President Trump should not be President.

The conspiracy theories are not harmless. They are sinister. They are insidious. They erode the democratic fabric of this country. They erode our fidelity of truth which is at the basis of democracy, and they help Putin sow discord in our country. Conspiracies need to stop. If the White House would like to submit evidence or offer witnesses to make the President's case, please do so. They haven't done it once. Instead, the White House is blocking documents and withholding witnesses who could potentially defend the President's action, a surefire sign, as ANGUS KING said in his op-ed, that the President has something to hide.

Given that the House announced it would write two Articles of Impeachment this morning, the White House's refusal to rebut the evidence under oath is something not lost on the Members of the U.S. Senate who could soon be judges and jurors in a Senate trial.

#### NATIONAL DEFENSE AUTHORIZATION ACT

Madam President, on another happier subject, over the weekend, negotiations on the annual defense bill concluded. There are lots of things missing in that bill, things that should have been included but were blocked by the Republican majority in the Senate. But there is one very good thing, among a few others. I am proud that the bill will now provide all Federal employees with 12 weeks of paid parental leave, something Democrats have pursued for a long time.

Once the NDAA is passed—hopefully in the coming week—1 million Federal employees will no longer have to choose between caring for a newborn and putting food on the table. This is huge, huge news. It will make the lives of millions of families better if you have a newborn baby that needs care, he or she. I just had a grandson who turned 1. I know just exactly what it is like. If both mom and dad work or it is a single-parent family, what is that family going to do?

It is one of the nerve-racking decisions that impedes on the joy of the new birth. Well, in many other countries, there is something called paid family leave where you can take off 3 months and raise the child in those early days when he or she is helpless. In the United States, some private companies are progressively doing it, but not enough. Well, now all Federal employees will get that opportunity with parental leave. It recognizes the changes in the world.

When I was growing up, my mom stayed at home while my dad went to work, who was an exterminator. That

is not the norm anymore. Most families have two working parents, and we have lots of single parents who bear the load of raising a family. All it takes is one serious illness, complication, or accident to wreak financial havoc on that family.

It is no surprise that paid family leave ranks near the top of voters' concerns. The United States is the only developed nation in the world that does not guarantee paid leave for parents of newborns or newly adopted. I hope that, after we pass parental leave for Federal employees, employees in the private sector will take notice and they will act as well. If this spreads throughout America, as often Federal policies do, it will be a great thing for our parents and our children.

Today, only 16 percent of workers in the private sector have access to paid leave. Studies overwhelmingly show that, when working parents can take care of their families without the fear of losing jobs, families are better off, and the economy is better off as well. So I am glad that the long push we have made on this side of the aisle for parental leave has been secured for all family workers. I hope it will become a reality soon for all workers, and I want to thank my colleagues who helped make this a reality.

#### NET NEUTRALITY

Madam President, on net neutrality, this Saturday marks the second anniversary of the FCC's party-line decision to repeal the net neutrality rules. To restore the safeguards of a free and open net that those rules protected, today my colleagues Senators MARKEY, CANTWELL, and WYDEN will ask the Senate's consent to pass the Save the Internet Act, which codifies net neutrality in a similar manner to last year's Congressional Review Act, which passed the Senate with strong bipartisan support.

I thank those Senators and so many others for their leadership on this important and sometimes overlooked issue. Net neutrality is based on a very simple idea, that the internet, just like our phones, our highways, our power sources, is a public good that all Americans should have access to without discrimination, whether you are a big company or a startup, a rural school or an individual consumer just like water companies can't discriminate if they come to their customers and say, oh, I am going to charge you \$10 for a day's use of water, but I am going to charge your neighbor down the street \$100. That would be unfair. We would not allow it. The same thing should be true with the internet.

Under the Obama administration, net neutrality rules prevented moneyed groups from getting preferential treatment. We should return to it. The administration has, unfortunately, sided with big special interests and repealed it. Senator MARKEY's legislation would restore the rules of the world that protect a free and open internet.

I thank my colleagues for bringing this to the Senate's attention today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority whip.

Mr. THUNE. Madam President, it should come as no surprise that I might have a different point of view than the Democrat leader when it comes to the issue of net neutrality. If you look at what has happened since the FCC ruled on this, there were all these terrible apocalyptic predictions that were made about how speeds were going to slow down, the internet was going to slow to a crawl, and you wouldn't be able to do basic applications anymore, none of which have happened.

Obviously, we all believe—I certainly do, and I think most of my colleagues on this side believe—that if you want to have an open and free internet, that is a good thing, and if there are concerns about blocking or throttling or slowing speeds in some way, the Congress should be heard from on that because what we have had now for several years is this ping-pong effect. When one party is in power, they change the rules to suit their desires, and then the other party comes to power and changes it. Then you have all this litigation that goes on in the courts, which doesn't help anybody. All that does is bog things down and generates a tremendous amount of cost, and nobody's interests are served by that.

So if there is a concern, and I have articulated this on many occasions to my colleagues on the other side, to work with us on a legislative solution where Congress can step in and put clear rules of the road in place when it comes to the internet—making sure we have an open and free internet—we are prepared to do that, but that is not something the Democrats have been interested in doing.

They would rather have this heavy hand of government that slows this innovation down, all these wonderful things that are happening in our economy right now—the race to 5G, which obviously is critically important to so many sectors of our economy—could be dramatically impeded if you had the heavy hand of government, the heavy hand of regulation, which has been advocated by our colleagues on the Democratic side for some time, if that became the norm.

When President Trump was elected, and Chairman Pai was made Chairman of the FCC, and we had a Republican FCC which did away with the heavy-handed regulations of the previous administration, we heard all these apocalyptic predictions coming from the Democrats about all of the horrible things that were going to happen to the internet. I can tell you that my experience, I think, is like most Americans. I can continue to download applications. I can continue to scroll and to see the things I want to see and to toggle back and forth between different websites in a way that I did before. It just flat hasn't happened. So they are trying to come up with a solution for a problem that does not exist.

That said, we would be happy to work with them. We want to put clear rules of the road in place, but that is not what they want. They want the heavy hand of government and the heavy hand of regulation strangling what has been one of the most remarkable economic miracles of the last half century, if you look at what the internet has done in terms of productivity in this country.

#### APPROPRIATIONS

Madam President, I am very pleased to hear that a deal has been reached to finally advance the 2020 fiscal year National Defense Authorization Act.

Every year, Congress takes up the National Defense Authorization Act to authorize funding for our military and our national defense. Like last year's NDAA, this year's bill focuses on rebuilding our military and ensuring that we are prepared to meet 21st century threats.

While many take it for granted that we have the strongest military in the world, in recent years, our military advantage over near-peer adversaries has eroded. Budgetary impasses, combined with increased operational demands, left our military undermanned, under-equipped, and ill-prepared for the conflicts of the 21st century.

In November of 2018, the bipartisan National Defense Strategy Commission released a report warning that our readiness had eroded to the point where we might struggle to win a war against a major power like Russia or China, and the Commission noted that we would be especially vulnerable if we were ever called on to fight a war on two fronts. That is not a good position to be in. Restoring our readiness has been and must continue to be our top priority.

This year's National Defense Authorization Act continues our efforts to rebuild our military. It invests in the planes, the combat vehicles, and the ships of the future, including the Joint Strike Fighter and the future B-21 bomber, which will be based at Ellsworth Air Force Base in my home State of South Dakota. It authorizes funding for research and development and advanced technology. It also focuses on ensuring that we are equipped to meet new threats on new fronts, including in the space and cyber domains. Of course, this bill invests in our most valuable resource—our men and women in uniform.

The National Defense Authorization Act authorizes a 3.1-percent pay increase for our troops, which is the largest increase in a decade. This is not only something our troops have earned, it is also an important way to increase retention in an All-Volunteer Force.

This year's National Defense Authorization Act also focuses on addressing the recent significant health and safety issues with private on-base housing. It contains measures to support military spouses seeking employment and increased access to childcare on military installations.

I am glad we are finally on track to get this important legislation done. The final bill, of course, like most legislation, is not perfect, but it will help ensure that our military receives the resources it needs to meet current threats and to prepare for the threats of the future.

I am also encouraged by the fact that it looks like Democrats have decided to work with us to get fiscal year 2020 Defense appropriations passed before Christmas.

Needless to say, the 2020 Defense appropriations bill, like the authorization bill which I just referenced, is critical legislation that authorizes the funding for current and future military priorities. It provides funding to support that pay increase for the men and women who keep us safe. It provides the funding for the weapons and equipment our troops need right now to carry out their missions, and it provides funding for the equipment and technology our military would need to defeat the threats of the future.

It provides funding for missile defense, for research and development, for ships, for planes, and for combat vehicles to update our aging fleets. It also provides funding for our allies, including \$250 million in military assistance for Ukraine. This is a critical national security bill, and it needs to be enacted as soon as possible.

It is unfortunate that we couldn't get this legislation done sooner, before the start of the new fiscal year in October. Delaying defense funding has left our military short of the resources it needs and unable to start important new projects. So I am glad that, at long last, the Democrats are finally willing to work with us on this important legislation. It is time to get this bill done so we can get our men and women in uniform the resources they need without further delay, as well as uphold our national security commitments to our friends and to our allies.

I hope negotiations will continue to move forward and that we can get this legislation to the President's desk within the next 2 weeks, before the Christmas holiday.

I yield the floor.

I suggest the absence of a quorum.

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

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SCOTT of Florida). Without objection, it is so ordered.

#### WYOMING WOMEN'S SUFFRAGE DAY

Mr. BARRASSO. Mr. President, I come to the floor as we celebrate today, in Wyoming, the 150th anniversary of Wyoming's women's right to vote—150 years. Before we even became a State, women were voting in Wyoming. Today, at our State capital building in Cheyenne, there is a huge celebration of people from around the

State and around the country celebrating this historic day.

Many people watching today may not know the history of what happened 150 years ago. Yesterday afternoon, Senator ENZI spoke on the Senate floor and outlined some of that history. I am so proud of my home State's amazing record in advancing this entire issue and concern and allowance of women's voting.

Women in Wyoming were the first in the Nation to use the right to vote. That is a fact. Wyoming women have been voting for 150 years. On December 10, 1869, Wyoming took a giant leap forward for women's equality. We are called the Equality State. This is a lot of the reason why.

Wyoming Governor Mark Gordon, in a ceremony this morning at our State capital in Cheyenne, is proclaiming today Wyoming Women's Suffrage Day. Wyoming is the first place in the country to pass a law securing women's right to vote, as well as the right not just to vote but to hold public office.

The people of Wyoming spoke loud and clear 150 years ago today. We stood with women 50 years ahead of the rest of the Nation. Wyoming was a territory back then. Our State had not yet joined the Union. That didn't happen until 1890. Still, that is when we earned the proud name of the Equality State.

Wyoming earned far more than the name. By leading the fight for women's rights, Wyoming has forever earned a hallowed place in the books of history. Nobody embodies that legacy more than Wyoming's Louisa Ann Swain. On September 6, 1870, Louisa Swain of Laramie, WY, became the first woman in the United States to vote in the general election. By casting her historic ballot, she claimed a great victory for women everywhere.

It is a tremendous heritage that we celebrate today. Wyoming truly is the Nation's trailblazer for women's equality. In fact, "Equal Rights" is our State motto.

On November 19, the Senate unanimously passed the Wyoming Women's Suffrage Day resolution. Senator ENZI and I cosponsored the resolution to commemorate today's 150th anniversary. Now the entire Nation can join in celebrating Wyoming's groundbreaking law.

Then, 20 years after the law's passage, Wyoming refused to enter the Union as a State unless we had equal voting rights, men and women. There was a big fight about it in Wyoming and in the Nation's Capital. When standing on principle became a major sticking point, Wyoming stuck to its guns on women's equality and actually ended up delaying becoming a State over this very issue.

On March 26 of 1890, Wyoming statehood legislation narrowly passed the U.S. House of Representatives. The measure passed the Senate a few months later, but part of the debate on the floor of the House of Representatives had to do with Wyoming women

actually voting in our then territory and now State.

President Benjamin Harrison signed Wyoming's statehood into law on July 10, 1890, upholding women's rights. Wyoming was technically the 44th State to enter the Union, but Wyoming really is the first State when it comes to women's equality. Wyoming put women first even before statehood.

Back home, 2019 is the "Year of Wyoming Women." Our State is paying tribute to our strong women leaders. We had the great honor of electing the first woman Governor, Wyoming's 14th Governor, Nellie Tayloe Ross. Wyoming boasts many more female firsts. These include the first woman to serve on a jury and the first female justice of the peace, Esther Hobart Morris. Wyoming also claims the first all-female city government. These pioneering women leaders were elected in 1920 in Jackson, WY. The Jackson press dubbed them "the petticoat government." So we celebrate 150 years of equal rights in Wyoming and 100 years for women nationwide.

In 1919, Congress passed the 19th Amendment to the Constitution, granting women's suffrage. This hard-fought legislative victory would ensure women's full participation in our democracy.

To mark this 100th anniversary, President Trump recently signed into law the Women's Suffrage Centennial Commemorative Coin Act. I had the privilege of cosponsoring this legislation that was introduced by Senator MARSHA BLACKBURN from Tennessee. The bill passed unanimously in the Senate. I made sure that Wyoming's Esther Hobart Morris was among the suffragettes honored in this legislation.

All Americans owe an enormous debt of gratitude to the Nation's extraordinary women leaders of the past, the present, and today as we pause to remember where it all started 150 years ago in the trailblazing State of Wyoming, the Equality State.

#### HEALTHCARE

Mr. President, now I would like to turn to a different topic. I come to the floor today as the Democrats in the House and in the Senate are obsessed with obstruction because they are obsessed over impeachment and are obstructing everything else.

We have only a week left to fund the government, to pass "America First" trade deals, and to support our military. Still, there is another priority issue that we need to address. We must provide relief, in my opinion, from costly ObamaCare taxes. There are several of those that are impacting our citizens around the country.

Last week, the Centers for Medicaid and Medicare released a report on healthcare spending. The report finds that health insurance costs grew in 2018 by a larger number than they had the year before.

Why does CMS believe that the rates of insurance actually have gone up additionally? Well, it is because of a couple of taxes.

One is the health insurance tax, or the HIT tax. It is in the Obama healthcare law. It is an unfair tax that has increased insurance premiums for small business owners and for seniors. That is why I have been a longtime opponent of this health insurance tax. Democrats need to help us get rid of the tax. They need to end it.

The second ObamaCare tax we must repeal is the so-called Cadillac health plan tax. The Cadillac tax affects millions of Americans who are covered through work, especially union workers. On December 5, a broad group of unions and employers wrote the Senate leaders urging a repeal.

This is what they said. The union leaders and supporters urged the repeal, and this is what they wrote to the Senate leaders:

The consequences of inaction are serious. Many millions of working Americans will pay more out of pocket . . . or face reduced health coverage.

We need to end this Cadillac tax now.

The third tax we need to repeal is the medical device tax. Really, it is a tax on innovation. The medical device tax is going to restrict patients' access to new lifesaving technologies.

Without congressional action, the health insurance tax and the medical device tax are going to take effect again in 2020 and the Cadillac tax in 2022. It is time to repeal these punishing taxes. We need to do this to protect patients and working families all across the country.

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

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

#### AGRICULTURE

Mr. GARDNER. Mr. President, I come before the Senate today to recognize a historic milestone in the Colorado agricultural community. The Colorado farm bureau is celebrating 100 years of representing farmers, ranchers, rural communities, and every aspect of agriculture in Colorado.

I grew up in the Eastern Plains, the very heart of agriculture. In fact, the county I grew up in is one of the largest corn-producing counties in the country and, certainly, economically speaking, one of the top agricultural communities in the State.

Our livelihood, our neighbors—everything—depend on agriculture. In fact, when there is a downturn in agriculture, it is not just the next day that our community feels that. It is that next hour that the community feels the impact. It is the same with a good agriculture economy. It is not just tomorrow that we will feel the impact, but immediately we will feel the impact.

I grew up working in a family farm equipment dealership where you got to

know everybody in the community, not because of the kind of operation they had but because of the kind of person they were, the kind of relationships you built, and then, of course, the opportunities to do business in those communities.

There are ebbs and flows, good times and bad times, times of prosperity and times of difficult predicaments in rural America, in agriculture. In the 1980s, I grew up watching one of the hardest times agriculture faced—watching a number of banks face foreclosures, a number of farmers face foreclosures. I watched as people I knew my whole life sold their farms, gave up farming, and closed their businesses.

It wasn't that long ago—in fact, just a few years ago—that we saw some of the highest priced commodities this country had ever seen for a very long time. The golden years of agriculture occurred just a couple of years ago because of all-time high prices. That is not the situation we are facing today.

Once you have worked in the agriculture industry, I think you develop a very deep understanding and appreciation for the men and women who have our farmers' backs through the good times and the bad times, like the Colorado Farm Bureau. The Farm Bureau plays a vital role in the wellbeing of all aspects of agriculture. It gives rural communities a prominent voice when the government is debating policies that impact their farms, their finances, and their families.

The Colorado Farm Bureau began in 1919, when a group of farmers, ranchers, veterinarians, rural doctors, shopkeepers, and tradesmen in 10 local counties met to form what was termed a "Farm Bureau." Their goal was to make the business of farming more profitable and the community a better place to live. The organization struggled through the years and almost died out in the 1930s.

In the late 1930s and early 1940s, a group of people across Colorado organized to breathe new life into that Farm Bureau in Colorado. Ezra Alishouse, C.J. Phillips, Arthur Andersen, and others sold memberships to rebuild the organization.

As a group of farmers naturally would, the Farm Bureau persisted and grew. They grew the Farm Bureau to become the largest farm organization in the State of Colorado and expanded the support they provided to ag communities throughout the State.

In the 1940s, farmers and ranchers were having a difficult time insuring their operations. So the Colorado Farm Bureau created a farm insurance casualty company. They began offering farm insurance in 1948. Later in the 1950s, they began offering life insurance for those in the agriculture community.

Today, the Colorado Farm Bureau represents 23,000 member families, 45 local county Farm Bureaus, and is one of the largest farmer-led organizations in the State of Colorado. The Colorado

Farm Bureau has a simple mission: to promote and protect the future of agriculture and rural values.

They show people the agriculture industry up close, why it is important to all of us, and the success of our rural communities.

The Farm Bureau offers leadership training for young professionals, scholarships, college programs, health and safety trainings, helpful resources to farmers, and support when it is needed the most. Through the Colorado Farm Bureau Foundation, the Farm Bureau has raised hundreds of thousands of dollars to support victims of natural disasters in Colorado, whether that is a drought or whether that is severe blizzards.

They represent, improve, and promote all aspects of agriculture in Colorado and have helped to develop the industry into the economic powerhouse it is and one of the strongest drivers of Colorado's economy.

Every year I have been honored to join the Colorado Farm Bureau and have the Colorado Farm Bureau join me on our annual farm tour. That is a tradition I first started when I came to the House of Representatives. Every fall we would go to the Eastern Plains of Colorado and the Western Slope of Colorado and talk to everyone from peach growers in Palisade to corn growers in Kiowa and beyond, and we had opportunities to learn how we can help every nook and cranny of the State when it comes to agriculture.

This year, we have traveled to 15 different counties across Colorado, visiting family farms, ranches, and agricultural businesses. We held roundtables with locally elected officials. We went to a wind farm and talked about the impact that renewable energy is having in positive aspects for our farmers and ranchers.

This farm tour wouldn't be possible without the Farm Bureau and the others who helped put it together and make sure we see these important issues that we are facing. In the past, we have turned to them for their expertise in policy, their insights, experience, and their partnerships as we champion efforts that will help and benefit rural Colorado. They have been a great partner in providing agricultural producers with the resources and certainty they need to protect private property rights, to protect our waterways, to ensure that farmers are treated fairly in the Tax Code, and, recently, in helping to relocate the headquarters of the Bureau of Land Management to Grand Junction.

The Farm Bureau is a regular presence in Washington. I think all of us know that. Colorado Farm Bureau members have played an important role in developing policy. They are not afraid to get their hands dirty and of the hard work it takes to get good legislation passed.

The Colorado Farm Bureau takes on difficult issues and has a real impact on people's lives. Their dedicated work

and their willingness to take on difficult issues has also earned them national recognition. In 2005, the Colorado Farm Bureau was recognized by the Department of the Interior in Washington for their work at the Colorado Department of Natural Resources to protect the mountain plover.

This created a win-win partnership that the government and the private sector could work in together to preemptively protect the species without listing it on the Endangered Species Act.

The Colorado Farm Bureau was instrumental in opening up 300,000 acres of land for data collection and research on the mountain plover's nesting and population status. Through that effort, they were able to avoid listing, develop better management practices, and help to grow the mountain plover population.

I look forward to continuing to hear from Colorado Farm Bureau members and farmers and ranchers across our State, as this Chamber—this body—debates new trade opportunities, new agricultural policies, and anything that could impact farmers back home.

Their contributions will be especially valuable as we continue to open up new markets for Colorado producers, invest in rural communities, and manage our public lands.

Last month, the Senate passed a resolution I introduced with my colleague, Senator BENNET, celebrating this historic 100th anniversary, recognizing all of the Colorado Farm Bureau's past, present, and future efforts to promote and advocate farm and ranch interests.

I ask my colleagues in the Senate to join me today in celebrating the Colorado Farm Bureaus's rich history and contributions to the ag industry, not just in Colorado but across the United States. Congratulations to the Colorado Farm Bureau for your 100 years of being a strong voice for farmers, ranchers, and our rural communities in the "Centennial State" and for all your work to protect the Colorado way of life. I look forward to continuing our work together with the Farm Bureau in seeing what we can accomplish for the next 100 years of agriculture in Colorado.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Montana.

**NOMINATION OF LAWRENCE VANDYKE**

**Mr. TESTER.** Mr. President, it is no secret that the Senate doesn't do much around here, except for confirming judges. But looking at the records of the folks we are confirming to the Federal bench, it is clear we have forgotten even how to do that.

The Founding Fathers were incredibly visionary. When they set up the Federal judiciary, they hoped to insulate it from political influence. How? By giving them lifetime appointments, with the advice and consent of the Senate. In doing so, they gave the Senators the most solemn of responsibilities we have in this body: evaluating

judicial nominees on their independence, their fairness, their temperament, and their judgment.

Unfortunately, these days, the Republican majority seems to have thrown qualifications out the window. Instead, they give out lifetime appointments to the court like candy. This doesn't prevent partisanship from influencing our judicial system; it ensures partisanship. The latest example is Lawrence VanDyke's nomination to the Ninth Circuit Court of Appeals, which has jurisdiction over Montana.

Mr. VanDyke is a familiar face to Montanans because he grew up and attended school in the great State of Montana. He also served as Montana's solicitor general before resigning to run an unsuccessful race for the State supreme court.

Montanans can separate the wheat from the chaff pretty well, and after examining his record and judgment, they found Mr. VanDyke unqualified to serve on the State's highest court. Montanans rejected him overwhelmingly at the ballot box, but now the majority leader wants to give him a lifetime seat on the bench.

Once you start to dig into Mr. VanDyke's extreme record, it is not hard to see why folks in my State were concerned about his ability to be fair and independent. This is a man who believes a government should insert itself between a woman and her doctor when she is trying to make private healthcare decisions. This is a man who, as Montana's solicitor general, worked to oppose same-sex marriage and questioned the ability of same-sex partners to properly raise children. This is a man who supports opening our public lands to mining and drilling.

By the way, our public lands contribute more than \$7 billion to our economy. Nonetheless, open it up, drill it, and mine it. And this is a man who ridiculed Montana's deep belief that corporations are not people. He argued in favor of unchecked money flowing into our elections. He believed that corporations were people and, in fact, his race for supreme court in Montana received over \$600,000 in outside spending—\$170,000 from the Koch brothers alone.

My guess is that some of my friends on the other side of the aisle view Mr. VanDyke's extreme positions as an asset, not an issue. They may point to the fact that he claimed he would be objective during his confirmation hearing.

The fact is, we cannot trust Mr. VanDyke to put aside his past positions and give everyone who comes before his court a fair shake, to be fair and impartial.

Mr. VanDyke has never been a judge, and he was rated as "not qualified" by the nonpartisan, nonpolitical American Bar Association.

By the way, this isn't the first nominee who has come up who has been rated as "not qualified." I asked a lawyer friend of mine what that means,

and he said, basically, if you can't achieve a "qualified" rating by the American Bar Association, you are a train wreck. That is what Mr. VanDyke is.

His nomination is opposed by over 200 conservation, education, civil rights, and other organizations. He is also opposed by six former Montana Supreme Court justices, folks that Montanans did elect to sit on the highest court in our State. They wrote of Mr. VanDyke:

It is doubtful that he understands that judicial decisions must be based solely on the facts of the case and on the law. . . . We strongly believe that Mr. VanDyke has demonstrated that he has neither the qualifications nor the temperament to serve as a federal court of appeals judge.

His coworkers from his time as Montana's solicitor general seem to agree. A former assistant attorney general who worked with VanDyke wrote privately to his colleagues:

Ever since he has arrived, Mr. VanDyke has been arrogant and disrespectful to others, both in and outside of this office. He avoids work. He does not have the skills to perform, nor desire to learn how to perform, the work of a lawyer. Now that he has resigned—

That was when he resigned to run for the supreme court—

and refuses to work on cases assigned to him, while remaining on the payroll for the next several months.

In fact, even Mr. VanDyke doesn't consider himself qualified to perform the basic duties of a lawyer. He once explained in an email that he has no experience in discovery, experts, stipulations, or in meeting and conferring with opposing counsel.

I am no lawyer, but those sound like the tasks that someone up for a lifetime judicial appointment should know how to do.

Let me put it this way. If I were looking for a contractor to do work on my farm and the contractor had these kinds of qualifications, I would not hire him for 1 minute, much less give him a job for a lifetime.

I spend more time in Washington, DC, than I would like, which is how I know there is no shortage of lawyers around here and around the country. There is absolutely no reason that we can't find someone better suited to this position than Lawrence VanDyke.

I know it is too much to hope that the Senate will act with as much common sense as the folks in Montana do, but I do expect us to have the decency to respect the will of Montana voters and reject Mr. VanDyke for a seat on the Ninth Circuit Court of Appeals.

I urge my colleagues to take a look at the record, to take a look at what he has done, to know it will not be a fair and impartial court if he is put on it, and I urge my colleagues to oppose his nomination.

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.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business.

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

OVER-THE-COUNTER MONOGRAPH SAFETY,  
INNOVATION, AND REFORM ACT

Mrs. MURRAY. Mr. President, last week, when I joined my colleagues to recognize Senator ISAKSON, I mentioned that when Johnny says he is going to get something done, you know it will get done. The bill we are getting ready to pass today in a few hours, the Over-the-Counter Monograph Safety, Innovation, and Reform Act, which he has worked on with Senator CASEY, proves it once again.

Every day, people head to their local pharmacy or retail store for over-the-counter medications to deal with a cough or a sore throat or a stomach ache. Every day, parents across the country turn to the medicine cabinet after someone comes home with a scrape or a bug bite or poison ivy. Every day, there are countless other health concerns people look to treat quickly, safely, and effectively with over-the-counter drugs. That is why this legislation is so important.

The pace of scientific discovery seems to speed up every day, but the over-the-counter monograph system—the system for how these drugs are regulated and brought to market—has not kept pace. The current system has not changed, actually, since 1972, and it sorely needs to. Right now, even after the science has made clear that small changes to the monograph, or recipe, for an over-the-counter drug might make it safer or more effective, it can take years for those changes to be approved under the current outdated process. Even small changes to a drug label, including changes regarding important new safety information, can be held up for years.

The Over-the-Counter Monograph Safety, Innovation, and Reform Act takes long-needed steps to address this problem and streamline the way over-the-counter drugs are regulated and brought to market. These changes will allow the Food and Drug Administration to do more to protect public health and make sure over-the-counter drugs, ingredients, and labels reflect the latest science. It will also encourage the development of new products to better meet the needs of patients. The legislation allows the FDA to collect user fees for reviewing over-the-counter drugs to make sure it has the resources it needs to do this important job.

Many families rely on over-the-counter drugs each day for a lot of different reasons. It is very important that these medications and the labels we turn to for information about them are safe, that they are effective, and

that they are as up-to-date with the latest science as possible. Thanks to the efforts of Senator ISAKSON and Senator CASEY, this bill we will vote on this afternoon will help accomplish that by updating the over-the-counter monograph system for the first time in decades. I know how important this bill has been to Senator ISAKSON and how he has worked so hard on it for many years. I want to tell him how grateful I am. I want him to know that I am particularly grateful for his commitment to getting this done for families back in Georgia and across the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

UNANIMOUS CONSENT REQUEST—S. 682

Mr. MARKEY. Mr. President, today I rise in defense of net neutrality. This week marks the 2-year anniversary of the Trump FCC's wrongheaded decision to repeal net neutrality.

First, let's be clear about what we are discussing today. Net neutrality is just another way of saying nondiscrimination. That is what it is all about. It is just another way of saying that big companies online can't discriminate against individual consumers; that large companies can't discriminate against smaller companies and startups; that corporations can't stifle speech online; that once you pay your monthly internet service bill, you can go anywhere you want on the internet without Charter or Comcast or AT&T or Verizon slowing down or blocking your path to a website of your choosing.

Despite all this, 2 years ago this week, the Trump Federal Communications Commission voted to throw out net neutrality at the behest of the broadband barons. Since then, we have watched as countless citizens, companies, and activists have continued to stand up and demand that net neutrality be restored.

This spring, the House of Representatives took an important step in passing the Save the Internet Act. My legislation in the Senate would overturn the Trump administration FCC's decision and restore net neutrality protections. In the Senate, we have already successfully passed the same proposal on a bipartisan basis.

In April of 2018, my Congressional Review Act resolution passed in the Senate by a bipartisan vote of 52 to 47. We debated net neutrality, and the Senate decided to join the majority of Americans and support a free and open internet. In that vote, we sent a message to President Trump about what it means to have an internet free of corporate control and open to all who want to communicate, engage, and innovate. We made clear that this Congress won't fall for President Trump's special interest agenda that just wants to block, slow down, or discriminate against content online just to charge Americans more on their cable and internet bills.

Unfortunately, the rules for a Congressional Review Act that allow just 30 Senators to force the majority to schedule a vote is not an option in this Congress because the right to bring a Congressional Review Act resolution to the floor has a time limit on it, which has now expired. So, instead, today we once again call for an immediate vote on the Save the Internet Act.

Already, in June, our Republican colleagues failed to listen to the voices of their constituents and blocked a vote from happening. Sadly, the Republicans plan to stonewall us again and to block this vote. This is yet another example of the Republican Party refusing to side with the ordinary people in our country—families, small businesses, startups, entrepreneurs, anyone with an idea who needs the internet to get it off the ground.

Under Senator MCCONNELL's leadership, the Republicans have buried this bill in their legislative graveyard. Instead of passing legislation, instead of acting on legislation which already passed in the Senate in 2018 and which passed the House of Representatives this April, Leader MCCONNELL has done little but confirm unqualified, extreme-right nominees for the Trump administration.

Just listen to some of the bills that Senate Republicans refuse to act on that have already moved through the House of Representatives this year: the Violence Against Women's Act, voting and democracy reform, gun background checks, paycheck fairness, and the Paris climate agreement. The answer from the Republican leadership is no, no, no. That is what continues to happen. Net neutrality is part of that chorus of "noes" that the Republicans aim at legislation the American people want and need to have passed here in the Senate.

But the Senate majority leader and his Republican colleagues can keep populating the legislative graveyard at their political peril because this is the agenda the American people want to see the Senate debating. They want to see these laws put on the books to protect families in this country. The issues they are blocking are enormously popular, and most have bipartisan support. Net neutrality is one of those issues.

The Save the Internet Act—the bill we are debating today—does exactly what the American people want. It restores the rules that ensure families aren't subjected to higher prices, slower internet speeds, and even blocked websites because the big internet providers want to pump up their profits. That is what today's fight is all about. It is a fight for innovation; for entrepreneurialism; for the American economy; a fight for free speech, which is the cornerstone of our democracy; and a fight for the most powerful platform for commerce and communications in the history of the planet.

Some will argue that since the Trump FCC ripped away the net neu-

trality rules, everything has been just fine, but we are not falling for that. As the legal challenges over this issue have taken place over the last 2 years, internet providers have had every incentive to keep a low profile, to keep things as they were. But ultimately, the question before the Senate today is whether consumers trust their internet companies to do the right thing without being told they have to. We know that consumers rightfully don't trust the broadband barons.

It is time we do the right thing for the American people. We can start with passing the Save the Internet Act and protecting the internet as we know it. The American people want action now. The Democrats are committed to fighting on their behalf. Net neutrality just stands for nondiscrimination online. You can't be biased against a smaller voice, a smaller company, a startup; it is not allowed. That is what net neutrality says to all the big broadband giants—you cannot discriminate. Net neutrality is something that is at the heart of what the 21st century should stand for in this internet age.

I urge my colleagues to support this motion.

I yield to the great leader of the State of Washington, Senator CANTWELL.

Ms. CANTWELL. Mr. President, I rise today to join my colleague from Massachusetts, who has been a leader on this important issue of net neutrality. I want to speak and back up what he said today about why it is so important and that we need to fight to protect a free and open internet, before I do, I would just like to mention that yesterday we filed a bill dealing with trade enforcement.

The reason I bring that up is because today there is going to be a lot of discussion about trade writ large. It is very important that in the trade discussion, we also have trade enforcement. Much of what we filed yesterday is what we hope to see in an agreement that is now being unveiled, and this builds on capacity building, which is very important. We want to make sure we have the enforcement capabilities at USTR and now the capacity and enforcement in Mexico to make these agreements work in the future. I look forward to discussing that with my colleagues.

I am really here to talk about how 2 years ago, the Trump administration, basically, with the FCC at the helm, repealed net neutrality and put Big Cable in charge of our internet future. Despite 83 percent of all Americans and a majority of Independents, Democrats, and Republicans supporting a free and open internet—that means making sure they weren't charged excessive rates—the FCC chose to side with cable companies.

Not long after, Verizon throttled the broadband service of Santa Clara firefighters in California when they were in the midst of fighting the massive Mendocino Complex Fire in 2018. Despite firefighters' urgent pleas to stop

the throttling, Verizon refused to do so.

For those who don't understand what throttling is, we are always concerned that without rules of the road, companies would slow down some access to internet sites. This is so important because we don't want an internet that is based on how much you pay for faster broadband access.

We think that to slow down important sites like public service sites or any sites or to base an internet on how much you pay is the wrong direction. More importantly, we need to make sure we are policing this. Even today, as we have no Federal agency with clear authority to adopt hard and fast rules to keep that situation from happening again, we need to keep fighting.

Another example is that wireless carriers have been accused of potentially throttling subscribers to Netflix, YouTube, and Sprint and allegedly interfering with Skype services. Again, that is another example of why we have to keep our message about a free and open internet no matter where we look, where we live, or where we are accessing the internet.

It is long past time for the Senate to vote on the Save the Internet Act—something on which our colleague from Massachusetts has been a leader.

Our bill would restore the protections for a free and open internet that were had by the Obama FCC in 2015, which would mean no blocking, throttling, or paid prioritization would be allowed. The FCC would have the flexible legal standards by which to address concerns that would arise from these big cable companies' threats to a free and open internet.

Again, I thank the Senator from Massachusetts for his leadership—persistent both in the House and the Senate—in stressing how important this is.

As my colleagues know, these issues are going to be very important in the future, not just with regard to privacy, which the Senator has also been a leader on—and I very much appreciate that the hometown newspaper wrote a glowing endorsement of the legislation he and I have just recently introduced on privacy—but in understanding that in the information age, you have to give consumers rights, that you have to give them the right to privacy, and that you have to give them the right to a free and open internet that is not controlled in speed and that is not controlled by one's saying, If you pay us more, we will give you access. This is going to be a key communication tool for the 21st century, and it needs to be open.

I thank my colleague for raising this important issue, and I will continue to work with him and our other colleagues to make it the law of the land.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, our ranking member on the Committee on Commerce, Science, and Transpor-

tation has always framed the issue of net neutrality and consumer rights appropriately.

I am going to speak for just a few minutes. Then, on behalf of our side—on behalf of the Democratic caucus—Senator MARKEY, our friend from Massachusetts, will propound a unanimous consent request. I note that the chairman of the committee is here, and we will have a bit of discussion.

Let me give a bit of history on this.

Senator MARKEY introduced the first net neutrality bill as a Member of the other Chamber, and I introduced the first net neutrality bill in the U.S. Senate. Right out of the gate, I think it is important for people to understand what this issue is all about. Real net neutrality empowers consumers. After they pay their internet access fees, they get to go where they want, when they want, and how they want. What Ajit Pai and Donald Trump want is something very different. They want an internet policy that lets Big Cable get what it wants, when Big Cable wants it, and how Big Cable wants it. That is the difference here.

Who is in the driver's seat?

Senator MARKEY, Senator CANTWELL, and I say that this is what the beauty of the internet has always been about, which is really simple. The consumer is in the driver's seat. We don't have an information aristocracy with lanes and all kinds of favoritism for the powerful and the influential. It is where the student, the small business, and the person without power and clout gets the same fair shake as everybody else.

What we have said is we want to keep the consumer in the driver's seat, and Mr. Pai and Donald Trump want a different notion of internet freedom. What they really want to say is that internet freedom is Big Cable freedom. That is their idea about how we ought to approach the internet. At the end of the day, if the policy here is about letting Big Cable rig the internet in favor of those who can afford to pay more and shake down everybody else, people will have a choice to do that, but that is not the choice Senator MARKEY and I are going to make.

Cable companies are already tricking people into buying so-called unlimited service plans that limit their service. People have uncovered the way they have throttled service for particular users, including for first responders in times of emergency. Megamergers that involve telecom and entertainment companies also limit competition and threaten to balkanize the internet.

We are talking about fracturing the internet into small bundles that cost big money. That is the vision the cable companies have—not net neutrality—by which you head in a direction whereby consumers pay a lot more for entertainment and information and small businesses scratch their heads and ask: How in the world am I going to compete with the big guys online? Fortunately, the courts recently said the Trump administration can't overrule States on net neutrality.

I look forward to being in my home State of Oregon in a couple of days and having town meetings. What I like the most is when people speak up on issues like fairness and net neutrality, and I am going to hear about it this weekend. Other States have policies like Oregon's as well.

Here in Congress, on this side of the aisle—and you will see it when Senator MARKEY offers his proposal in a moment—we are going to keep up the fight to protect consumers from Ajit Pai and the Trump FCC. We still have that vision of the original internet that Senator MARKEY and I talked about when he offered the first proposal in the House and I offered the first proposal in the Senate. What could be more simple than putting the consumer in the driver's seat? You can say where you want to go, when you want, and how you want. Now we are talking today—years later—about the cable companies being able to say they are going to decide those very issues.

I am very pleased—and I think it is very appropriate—that after years of leadership on this issue in both the other body and in the U.S. Senate that Senator MARKEY is going to speak for our caucus on this issue and call for the Senate to pass his legislation so as to have a truly free and open internet for the entire country.

If you don't get the Markey proposal, what you are going to see are big cable companies that will, bit by bit, little by little, keep ratcheting up the cost of internet access. By the way, their strategy is to do that little by little because they are hoping nobody will ever complain and that nobody will notice. Senator MARKEY and I and our caucus have figured out that the cable companies are trying to disguise price hikes and data limits in the end by flashing discounts on bundles of content. What the cable people are talking about is a bad deal for consumers, and it is a bad deal because Ajit Pai and Donald Trump want to put Big Cable profits over the interests of the typical American.

With my full support, I appreciate Senator MARKEY's offering this legislation today. In going forward, we are going to be working with him to keep up this fight, and I look forward to the discussion.

I notice that my colleague from the end of the alphabet and my friend, the chairman of the committee, is here, and we will have a little back-and-forth.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. MARKEY. Mr. President, I agree with every word Senator WYDEN has just spoken on the Senate floor, and I thank him for his leadership in going back to 2006, which was when we first introduced into the U.S. Congress legislation on net neutrality. We did it then because it was important, and we are doing it today because it is critically important.

The question is really whether the internet is going to be free and open or whether it is going to have the principles of nondiscrimination. Smaller voices, smaller companies, startup companies, and individuals in our society must be protected on the internet in the future. That is what net neutrality is all about.

We are on the right side of history on this issue. Every day that goes by further instructs us as to how central the internet is in our country and on the planet. Ultimately, it has to be open, and it has to be free. It cannot have nondiscrimination built into it because a small handful of huge companies decide they have a right to discriminate.

I thank the Senator from Oregon, and I thank our leader on the Committee on Commerce, Science, and Transportation, Senator CANTWELL of Washington State, for their great leadership on this issue.

Mr. President, as in legislative session, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of S. 682; further, that the Senate proceed to its immediate consideration, the bill be considered read a third time and passed, and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Mississippi.

Mr. WICKER. Mr. President, in reserving the right to object, let me disagree fundamentally with my friends on the other side of the aisle about who is on the right side of history.

I would simply offer to my distinguished colleagues and to other Members of the body that we need only to look at what has happened during the past 2 years under the Ajit Pai-Donald Trump FCC and compare it to what happened to the internet under the approach being advocated by my colleagues today.

In 2015, President Obama's FCC ordered the imposition of title II regulations to the internet. They called this net neutrality. Basically, what it amounted to was a Big Government, Depression-era set of regulations that gave bureaucrats control over virtually every aspect of the internet. They implemented this in 2015, and investment decreased dramatically during the next 2 years. This was the first time in the history of the internet that broadband investment decreased outside of the time of a recession. It was bad for the internet, bad for the public, and bad for small businesses and startups. I wonder if it is from this that the Save the Internet Act would save us. If they want to save us from innovation and growth, then perhaps the Save the Internet Act would get the job done, for we had no growth during that time and less innovation.

Two years ago, the new FCC came in and did away with some of these Big Government, Depression-era regula-

tions that scared off investment, particularly the Depression-era title II regulation, as if the internet were going to be governed like a utility company from the 1930s and 1940s. It did away with them.

Since that time—in the 2 years of America's operating under what my friends would end with this legislation—more Americans have been connected to the internet than ever before. We have faster internet speeds than ever before. Now, in States like my home State of Mississippi and all across the great heartland of America, more rural Americans get more internet at faster speeds.

We have two choices today—the one from 4 years ago that led to less growth and a recession in the growth of the internet or the one from the past 2 years, whereby we have been better off than ever before.

I will agree with my colleagues in one respect. We should have no discrimination online, and we don't have discrimination online today. There are no lanes, as my friends on the other side of the aisle have said. There is no favoritism in what we are doing. We just have prosperity and huge growth in the internet.

If my friends on the other side of the aisle want to join us in enacting a permanent statute so we don't go back and forth between a regime of Democratic-controlled FCCs and Republican-controlled FCCs, if they would like to help us in that regard, statutorily place nondiscrimination online in the law, free and open internet in the law outside of the regulation of something that we have imposed on another part of our economy half a century ago, then I hope they will join in the bipartisan effort that Senator SINEMA and I are participating in—the Senate Net Neutrality Bipartisan Working Group. I would hope they would want to join us in that regard.

We can make the statute better, but I would certainly offer to my colleagues the facts, and the facts are that the past 2 years have been a time of great growth of the internet. The previous 2 years, under depression-era rules, were a time of dramatically decreased investment.

For that reason, I do object to the unanimous consent request offered by the distinguished Senator from Massachusetts.

The PRESIDING OFFICER (Mr. CRUZ). Objection is heard.

The Senator from Massachusetts.

Mr. MARKEY. Mr. President, what we just heard from the majority is, in fact, a false narrative that contends that we have to choose between broadband deployment and net neutrality, and if we don't put net neutrality back on the books, there will be internet fast and slow lanes. That is what is about to happen if we don't act out here on the Senate floor. Innovation will be stifled, consumers will have to pay higher prices, the internet will not be as we have known it in the past.

So I absolutely feel that what just happened is a disservice to consumers and innovators in our country; that they should be allowed to have net neutrality as their protection, and I think, again, that we are on the right side of history in propounding this legislation to be brought out here, and, ultimately, today history was not served well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. Mr. President, I would simply say in response to my good friend from Massachusetts: Where are the fast and slow lanes? They may happen sometimes. We have been warned for 2 years this is going to happen. It hasn't happened.

What has happened is the greatest growth in the internet that we have seen, as opposed to the stifled growth we had during the 2 years of title II regulation under the Obama administration.

I want to work with them on non-discrimination online. Everyone wants a fair and open internet, but I think everyone also wants the great growth we have had over the past 2 years, and we can have it with a bipartisan bill like the one Senator SINEMA and I are working on and unlike the idea of putting us under depression-era rules.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

OVER-THE-COUNTER MONOGRAPH SAFETY, INNOVATION, AND REFORM ACT

Mr. ALEXANDER. Mr. President, every year, Americans make nearly 3 billion trips to the drugstore, pharmacies, convenience stores to pick up over-the-counter products such as allergy medicines, children's cough syrup, or simple pain medicines such as aspirin.

As the Senate Health, Education, Labor, and Pensions Committee was working on the 21st Century Cures Act in 2016, I asked Janet Woodcock, the Director of the Center for Drug Evaluation and Research at the Food and Drug Administration: Are there any changes that really need to be made in the FDA's law? This is a train—referring to the 21st century cures legislation—that is likely to get to the station. If you have something that really needs to be done for the benefit of American consumers that you haven't been able to get done, tell us what it is, and we will put it on the train.

Well, Ms. Woodcock, who has been at the FDA for a while, came back to me and said the over-the-counter monograph.

Now, what that means is these are the rules that govern how all drugs sold in pharmacies, other than prescription drugs, are approved—the allergy medicines, the cough syrups, the simple pain medicines. Those haven't been changed since the 1970s, nearly 50 years ago.

Today the Senate, after all that time, nearly a half century, will modernize these rules by passing legislation proposed by Senator ISAKSON and

Senator CASEY. It is called the Over-the-Counter Monograph Safety, Innovation and Reform Act.

I am sure it will get a big vote of approval, and like a lot of other very important things that are done in the Senate that are very, very difficult to do, it will look easy.

It hasn't been easy. It has taken a long time—nearly a half century. It was the one thing that the FDA said we just can't get done. That was in 2016, 3 years ago, and now Senator ISAKSON and Senator CASEY are getting it done.

It is the most important law affecting the safety, innovation, and cost of over-the-counter drugs since the 1970s.

It is a great testament to Senator ISAKSON's leadership and legislative skill. He, of course, is leaving the Senate at the end of this year, and this is a fitting tribute to his work.

In the same way, I thank Senator CASEY of Pennsylvania for his excellent work, in bipartisan fashion, with Senator ISAKSON on this bill. They both deserve great credit and thanks for getting this update across the finish line. It may look easy, but what they have done is something that hasn't been changed for nearly a half century and that the Food and Drug Administration said was the one thing that needed to be done to help consumers to affect the availability, the safety, the cost, and the innovation of drugs that are sold across the counter that are not prescription drugs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

#### HEALTHCARE

Ms. HASSAN. Mr. President, I rise to join my Democratic colleagues who have come to the floor in recent weeks to share stories from our constituents about the need to protect and improve healthcare.

Throughout the last 3 years, the Trump administration and Republicans in Congress have been relentless in their attempts to undermine our healthcare system, and their efforts have increased costs and made it harder for patients to access the care they and their families need.

Instead of working to improve our healthcare system and ensure that it is actually working for patients, this administration and some of my Republican colleagues have actively sought to do the opposite, and that has very real implications for the people we serve.

Take, for example, Cassandra Van Kuren of Manchester, NH. Cassandra is a 26-year-old who is passionate about fitness and staying healthy. That is why it was so devastating that a week before she turned 25, she got the news that she had been diagnosed with type 1 diabetes.

Cassandra's life had been turned upside down, and after her diagnosis, she was immediately hit with another shocking blow: the costs associated with her condition.

Within the first week of her diagnosis, she was forced to max out her

credit card, and to this day she is still paying back all of the bills she accumulated within her first month of being diagnosed.

Soon after, she lost her job because she missed so much work. She then went to work with her husband at the gym they own in Manchester and was able to get health insurance through the business.

Still, the costs remain enormous. On average, Cassandra has to spend \$150 a month on insulin costs alone after insurance. Her premium is over \$400 per month, and every 3 months she accumulates bills of over \$500 due to the cost of appointments and equipment. And, sadly, Cassandra and her husband are nervous about starting a family because their costs for care would grow even higher. The amount of insulin a woman with type 1 diabetes needs increases three times when she is pregnant.

Cassandra's story is an example of why we need to improve our healthcare system and also why we can't afford to allow Washington Republicans to pull us backward.

The administration is backing a partisan lawsuit—the result of which we will know soon—which would take healthcare away from millions of Americans, gut protections for pre-existing conditions, end Medicaid expansion, and eliminate the requirement that insurers must cover prescription drugs, maternity care, mental healthcare, substance abuse treatment, and so much more.

With the support of Senate Republicans, the administration has promoted what are appropriately referred to as junk health insurance plans. These junk plans allow insurance companies to discriminate against Americans who experience preexisting conditions, and they also leave patients with higher healthcare costs and worse insurance coverage.

The administration has opposed certain efforts to lower the costs of prescription drugs, in particular, allowing Medicare to negotiate prices on life-saving drugs, including insulin. These actions are unacceptable.

Families in New Hampshire and all across the country cannot afford these reckless attacks on their healthcare, and they want us to work together on constructive bipartisan solutions that improve their lives and lower their costs, not this constant uncertainty and sabotage.

The efforts of people like Cassandra, who have shared their stories in an attempt to shine a light on the challenges that patients are experiencing, are incredibly important. No one should have to share their most deeply personal healthcare stories and plead for lawmakers not to undermine their health coverage, but that is where we are. I am incredibly grateful for those who have had the courage to speak out. I will continue to share their stories, and I will continue working with anyone who is serious about actually im-

proving our healthcare system, not undermining them.

Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

#### NOMINATION OF LAWRENCE VANDYKE

Ms. ROSEN. Mr. President, I stand here today in opposition to the nomination of Lawrence VanDyke to the Ninth Circuit Court of Appeals in Nevada, and I stand here today because I think we can all agree—no matter where you are from—that Federal judges in our States should come from our communities, and they should reflect our communities.

It is unfortunate to see this Chamber disregard Nevada's voice and move forward with Mr. VanDyke's nomination. The State of Nevada has numerous qualified lawyers and judges who have done good work and have good reputations in our communities, who are non-partisan, and who would make excellent additions to the Ninth Circuit. But the White House didn't nominate any of these qualified individuals for the Ninth Circuit. Instead, the President nominated Lawrence VanDyke, a man who wasn't born in Nevada, didn't grow up in Nevada, didn't go to school in Nevada, and doesn't live in Nevada now. He hasn't even set foot in Nevada for over a year.

This administration has nominated someone to serve on the Nevada seat of the Ninth Circuit who—and let me be clear—is not a Nevadan. Mr. VanDyke is, however, a Washington, DC, lawyer and failed political candidate from Montana who was nominated to further his and this administration's extreme political views.

His nomination is being imposed on the people of Nevada, despite the many qualified individuals in our own State—individuals who are respected on both sides of the aisle.

As if Mr. VanDyke's lack of any meaningful connection to the State of Nevada wasn't enough, Mr. VanDyke is not even qualified to hold this post, according to the American Bar Association. In reviewing this nominee and speaking with dozens upon dozens of his former colleagues, the ABA found Mr. VanDyke specifically “not qualified” to serve in this role. The ABA has made that finding for only 3 percent of President Trump's judicial nominees, and Mr. VanDyke is the first in a small group whose nomination will move forward without—let me repeat: without—the support of either Senator representing the State where he will sit on the bench if confirmed. That we would allow someone who is not qualified to hold a lifetime position in such a critically important role is, frankly, absurd, and it is something no Senator should support, no matter the party of the President who nominated them.

The ABA's report found Mr. VanDyke to be lacking in knowledge of day-to-day practice, including procedural rules. The report found Mr. VanDyke to be lacking humility and an open

mind, and the ABA's report found Mr. VanDyke to be lacking a commitment to the truth.

In order to see how the ABA came to this conclusion, one only needs to look at Mr. VanDyke's record of pursuing an ideological agenda instead of working for the people and defending the law. In his past role as attorney general of Montana, he filed many politically driven briefs, including one asking the Supreme Court to strike down *Roe v. Wade* altogether, a view that is out of step with the views of Nevadans. He even signed the State onto one brief without reading it, by his own admission.

Mr. VanDyke has also made controversial and appalling statements about LGBTQ Americans, writing this: "[There is] ample reason for concern that same-sex marriage will hurt families, and consequentially children and society."

Mr. VanDyke was given every opportunity to disavow this statement and repeatedly declined to do so. Allowing Mr. VanDyke to serve on the Ninth Circuit would put at risk the rights of thousands of LGBTQ Americans to employment, healthcare, housing, and basic equal treatment in what is often the court of last resort.

Surely you must agree, no matter who is President or who controls the Senate, you would want qualified judges with connections to the State who will be fair to your constituents and not use cases to advance their personal ideological agenda.

I oppose the nomination of Mr. VanDyke, and if it is withdrawn or voted down, I will be ready at a moment's notice to work with this White House in finding a fair, qualified, and non-partisan nominee from Nevada. The people of my home State and yours deserve nothing less.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CAPITO).

#### EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Bumatay nomination?

Mr. HEINRICH. 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.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNETT), the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator

from Vermont (Mr. SANDERS), the Senator from Virginia (Mr. WARNER), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 387 Ex.]

#### YEAS—53

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

#### NAYS—40

Baldwin	Heinrich	Rosen
Blumenthal	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Sinema
Carper	Leahy	Smith
Casey	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Udall
Duckworth	Merkley	Van Hollen
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	
Hassan	Reed	

#### NOT VOTING—7

Bennet	Klobuchar	Warren
Booker	Sanders	
Harris	Warner	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

#### CLOTURE MOTION

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

The senior assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Lawrence VanDyke, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

Mitch McConnell, Tom Cotton, John Boozman, Mike Crapo, Thom Tillis, Chuck Grassley, Jerry Moran, Kevin Cramer, John Barrasso, Mike Braun, Joni Ernst, Pat Roberts, John Cornyn, Roy Blunt, John Thune, Lindsey Graham, Roger F. Wicker.

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

The question is, Is it the sense of the Senate that debate on the nomination

of Lawrence VanDyke, of Nevada, to be United States Circuit Judge for the Ninth Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNETT), the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), the Senator from Virginia (Mr. WARNER), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER (Mrs. BLACKBURN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 40, as follows:

[Rollcall Vote No. 388 Ex.]

#### YEAS—53

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Collins	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	

#### NAYS—40

Baldwin	Heinrich	Rosen
Blumenthal	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Sinema
Carper	Leahy	Smith
Casey	Manchin	Stabenow
Coons	Markey	Tester
Cortez Masto	Menendez	Udall
Duckworth	Merkley	Van Hollen
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	
Hassan	Reed	

#### NOT VOTING—7

Bennet	Klobuchar	Warren
Booker	Sanders	
Harris	Warner	

The PRESIDING OFFICER. The yeas are 53, the nays are 40.

The motion is agreed to.

#### EXECUTIVE CALENDAR

The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Lawrence VanDyke, of Nevada, to be United States Circuit Judge for the Ninth Circuit.

LEGISLATIVE SESSION

OVER-THE-COUNTER MONOGRAPH SAFETY, INNOVATION, AND REFORM ACT OF 2019

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to legislative session and the consideration of S. 2740, which the clerk will report.

The senior assistant legislative clerk read as follows:

A bill (S. 2740) to amend the Federal Food, Drug, and Cosmetic Act to clarify the regulatory framework with respect to certain nonprescription drugs that are marketed without an approved new drug application, and for other purposes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, the Senate is about to vote on the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019.

I want to thank my friend and colleague Senator ISAKSON for his good work on this for many years, Chairman ALEXANDER, and Ranking Member PATTY MURRAY.

The current OTC monograph system is broken, and what we are talking about, in simple form, is literally what is on your pill bottle, that kind of information.

It is a broken system. The FDA doesn't have the authority to move swiftly when there is a threat to public health; it doesn't have the opportunity to update existing monographs; and there is no incentive for innovation.

This legislation is decades overdue. I am grateful for the good work of so many who made it possible. It is a commonsense bill, consumer group supported, industry stakeholder supported, and of course the FDA not only supports it but needs it.

I will now yield to my friend and colleague, Senator JOHNNY ISAKSON.

Mr. ISAKSON. Madam President, I thank the Senator from Pennsylvania.

If you want to go home on time, if you want to take something home to give to the American people that they want and they need, then you will vote with me and the other Members who have spoken on the Over-the-Counter Monograph bill today.

There are sunscreens on the market in Europe that are 12 years short of being on the market in America all because of an antiquated approval system to make sure they are safe but to get them to the market in time. It is about time we ended melanoma, and it is about time we got American consumers what they want. It is about time we settle the problem. It has been a problem for a long time.

So I ask you—in fact, I plead with you—to vote for this bill, and you will make everybody happy, nobody mad, and you will save a life. There is nothing better than that.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, I ask unanimous consent to speak for 1 minute in opposition.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BURR. Madam President, I reluctantly rise in opposition to this legislation, and I have worked with Senator ISAKSON over the years on FDA legislation.

I want to be perfectly clear that I agree with all of the reforms that are in this piece of legislation within the over-the-counter division at FDA. I simply disagree with the way in which this legislation provides the resources to achieve these reforms because I don't believe it will result in what the expectations are of the authors.

When the drug industry first agreed to user fees in 1993, the fee to file a new drug application was \$100,000. Today that fee is \$2.1 million. To that end, the FDA has struggled to uphold its end of the bargain, falling behind in its commitment to hire the number of employees the agency needs to actually review the applications that cost millions of dollars to file.

The FDA continues to increase the amount of user fee dollars it requires to review applications, eroding the balance of congressional oversight provided by the appropriation of taxpayer dollars.

I encourage my colleagues that what JOHNNY is trying to do is the right thing to do, but it is the wrong way to pay for it.

I yield the floor.

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

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

Mr. CARDIN. Madam President, 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Vermont (Mr. SANDERS), the Senator from Virginia (Mr. WARNER), and the Senator from Massachusetts (Ms. WARREN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 2, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—91

Alexander	Boozman	Carper
Baldwin	Braun	Casey
Barrasso	Brown	Cassidy
Blackburn	Cantwell	Collins
Blumenthal	Capito	Coons
Blunt	Cardin	Cornyn

Cortez Masto	Jones	Rosen
Cotton	Kaine	Rounds
Cramer	Kennedy	Rubio
Crapo	King	Sasse
Cruz	Lankford	Schatz
Daines	Leahy	Schumer
Duckworth	Lee	Scott (SC)
Durbin	Manchin	Shaheen
Enzi	Markey	Shelby
Ernst	McConnell	Sinema
Feinstein	McSally	Smith
Fischer	Menendez	Stabenow
Gardner	Merkley	Sullivan
Gillibrand	Moran	Tester
Graham	Murkowski	Thune
Grassley	Murphy	Tillis
Hassan	Murray	Toomey
Hawley	Paul	Udall
Heinrich	Perdue	Van Hollen
Hirono	Peters	Whitehouse
Hoeben	Portman	Wicker
Hyde-Smith	Reed	Wyden
Inhofe	Risch	Young
Isakson	Roberts	
Johnson	Romney	

NAYS—2

Burr  
Scott (FL)

NOT VOTING—7

Bennet	Klobuchar	Warren
Booker	Sanders	
Harris	Warner	

The bill (S. 2740) was passed, as follows:

S. 2740

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—OTC DRUG REVIEW

Sec. 101. Regulation of certain nonprescription drugs that are marketed without an approved drug application.

Sec. 102. Misbranding.

Sec. 103. Drugs excluded from the over-the-counter drug review.

Sec. 104. Treatment of Sunscreen Innovation Act.

Sec. 105. Annual update to Congress on appropriate pediatric indication for certain OTC cough and cold drugs.

Sec. 106. Technical corrections.

TITLE II—USER FEES

Sec. 201. Short title; finding.

Sec. 202. Fees relating to over-the-counter drugs.

TITLE I—OTC DRUG REVIEW

SEC. 101. REGULATION OF CERTAIN NON-PRESCRIPTION DRUGS THAT ARE MARKETED WITHOUT AN APPROVED DRUG APPLICATION.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting after section 505F of such Act (21 U.S.C. 355g) the following:

“SEC. 505G. REGULATION OF CERTAIN NON-PRESCRIPTION DRUGS THAT ARE MARKETED WITHOUT AN APPROVED DRUG APPLICATION.

“(a) NONPRESCRIPTION DRUGS MARKETED WITHOUT AN APPROVED APPLICATION.—Nonprescription drugs marketed without an approved drug application under section 505, as of the date of the enactment of this section, shall be treated in accordance with this subsection.

“(1) DRUGS SUBJECT TO A FINAL MONOGRAPH; CATEGORY I DRUGS SUBJECT TO A TENTATIVE FINAL MONOGRAPH.—A drug is deemed to be

generally recognized as safe and effective under section 201(p)(1), not a new drug under section 201(p), and not subject to section 503(b)(1), if—

“(A) the drug is—

“(i) in conformity with the requirements for nonprescription use of a final monograph issued under part 330 of title 21, Code of Federal Regulations (except as provided in paragraph (2)), the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

“(ii) except as permitted by an order issued under subsection (b) or, in the case of a minor change in the drug, in conformity with an order issued under subsection (c), in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2); or

“(B) the drug is—

“(i) classified in category I for safety and effectiveness under a tentative final monograph that is the most recently applicable proposal or determination issued under part 330 of title 21, Code of Federal Regulations;

“(ii) in conformity with the proposed requirements for nonprescription use of such tentative final monograph, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsections (b), (c), and (k); and

“(iii) except as permitted by an order issued under subsection (b) or, in the case of a minor change in the drug, in conformity with an order issued under subsection (c), in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2).

“(2) TREATMENT OF SUNSCREEN DRUGS.—With respect to sunscreen drugs subject to this section, the applicable requirements in terms of conformity with a final monograph, for purposes of paragraph (1)(A)(i), shall be the requirements specified in part 352 of title 21, Code of Federal Regulations, as published on May 21, 1999, beginning on page 27687 of volume 64 of the Federal Register, except that the applicable requirements governing effectiveness and labeling shall be those specified in section 201.327 of title 21, Code of Federal Regulations.

“(3) CATEGORY III DRUGS SUBJECT TO A TENTATIVE FINAL MONOGRAPH; CATEGORY I DRUGS SUBJECT TO PROPOSED MONOGRAPH OR ADVANCE NOTICE OF PROPOSED RULEMAKING.—A drug that is not described in paragraph (1), (2), or (4) is not required to be the subject of an application approved under section 505, and is not subject to section 503(b)(1), if—

“(A) the drug is—

“(i) classified in category III for safety or effectiveness in the preamble of a proposed rule establishing a tentative final monograph that is the most recently applicable proposal or determination for such drug issued under part 330 of title 21, Code of Federal Regulations;

“(ii) in conformity with—

“(I) the conditions of use, including indication and dosage strength, if any, described for such category III drug in such preamble or in an applicable subsequent proposed rule;

“(II) the proposed requirements for drugs classified in such tentative final monograph in category I in the most recently proposed rule establishing requirements related to such tentative final monograph and in any final rule establishing requirements that are applicable to the drug; and

“(III) the general requirements for nonprescription drugs and conditions or requirements under subsection (b) or (k); and

“(iii) in a dosage form that, immediately prior to the date of the enactment of this

section, had been used to a material extent and for a material time under section 201(p)(2); or

“(B) the drug is—

“(i) classified in category I for safety and effectiveness under a proposed monograph or advance notice of proposed rulemaking that is the most recently applicable proposal or determination for such drug issued under part 330 of title 21, Code of Federal Regulations;

“(ii) in conformity with the requirements for nonprescription use of such proposed monograph or advance notice of proposed rulemaking, any applicable subsequent determination by the Secretary, the general requirements for nonprescription drugs, and conditions or requirements under subsection (b) or (k); and

“(iii) in a dosage form that, immediately prior to the date of the enactment of this section, has been used to a material extent and for a material time under section 201(p)(2).

“(4) CATEGORY II DRUGS DEEMED NEW DRUGS.—A drug that is classified in category II for safety or effectiveness under a tentative final monograph or that is subject to a determination to be not generally recognized as safe and effective in a proposed rule that is the most recently applicable proposal issued under part 330 of title 21, Code of Federal Regulations, shall be deemed to be a new drug under section 201(p), misbranded under section 502(ee), and subject to the requirement for an approved new drug application under section 505 beginning on the day that is 180 calendar days after the date of the enactment of this section, unless, before such day, the Secretary determines that it is in the interest of public health to extend the period during which the drug may be marketed without such an approved new drug application.

“(5) DRUGS NOT GRASE DEEMED NEW DRUGS.—A drug that the Secretary has determined not to be generally recognized as safe and effective under section 201(p)(1) under a final determination issued under part 330 of title 21, Code of Federal Regulations, shall be deemed to be a new drug under section 201(p), misbranded under section 502(ee), and subject to the requirement for an approved new drug application under section 505.

“(6) OTHER DRUGS DEEMED NEW DRUGS.—Except as provided in subsection (m), a drug is deemed to be a new drug under section 201(p) and misbranded under section 502(ee) if the drug—

“(A) is not subject to section 503(b)(1); and

“(B) is not described in paragraph (1), (2), (3), (4), or (5), or subsection (b)(1)(B).

“(b) ADMINISTRATIVE ORDERS.—

“(1) IN GENERAL.—

“(A) DETERMINATION.—The Secretary may, on the initiative of the Secretary or at the request of one or more requestors, issue an administrative order determining whether there are conditions under which a specific drug, a class of drugs, or a combination of drugs, is determined to be—

“(i) not subject to section 503(b)(1); and

“(ii) generally recognized as safe and effective under section 201(p)(1).

“(B) EFFECT.—A drug or combination of drugs shall be deemed to not require approval under section 505 if such drug or combination of drugs—

“(i) is determined by the Secretary to meet the conditions specified in clauses (i) and (ii) of subparagraph (A);

“(ii) is marketed in conformity with an administrative order under this subsection;

“(iii) meets the general requirements for nonprescription drugs; and

“(iv) meets the requirements under subsections (c) and (k).

“(C) STANDARD.—The Secretary shall find that a drug is not generally recognized as safe and effective under section 201(p)(1) if—

“(i) the evidence shows that the drug is not generally recognized as safe and effective under section 201(p)(1); or

“(ii) the evidence is inadequate to show that the drug is generally recognized as safe and effective under section 201(p)(1).

“(2) ADMINISTRATIVE ORDERS INITIATED BY THE SECRETARY.—

“(A) IN GENERAL.—In issuing an administrative order under paragraph (1) upon the Secretary's initiative, the Secretary shall—

“(i) make reasonable efforts to notify informally, not later than 2 business days before the issuance of the proposed order, the sponsors of drugs who have a listing in effect under section 510(j) for the drugs or combination of drugs that will be subject to the administrative order;

“(ii) after any such reasonable efforts of notification—

“(I) issue a proposed administrative order by publishing it on the website of the Food and Drug Administration and include in such order the reasons for the issuance of such order; and

“(II) publish a notice of availability of such proposed order in the Federal Register;

“(iii) except as provided in subparagraph (B), provide for a public comment period with respect to such proposed order of not less than 45 calendar days; and

“(iv) if, after completion of the proceedings specified in clauses (i) through (iii), the Secretary determines that it is appropriate to issue a final administrative order—

“(I) issue the final administrative order, together with a detailed statement of reasons, which order shall not take effect until the time for requesting judicial review under paragraph (3)(D)(ii) has expired;

“(II) publish a notice of such final administrative order in the Federal Register;

“(III) afford requestors of drugs that will be subject to such order the opportunity for formal dispute resolution up to the level of the Director of the Center for Drug Evaluation and Research, which initially must be requested within 45 calendar days of the issuance of the order, and, for subsequent levels of appeal, within 30 calendar days of the prior decision; and

“(IV) except with respect to drugs described in paragraph (3)(B), upon completion of the formal dispute resolution procedure, inform the persons which sought such dispute resolution of their right to request a hearing.

“(B) EXCEPTIONS.—When issuing an administrative order under paragraph (1) on the Secretary's initiative proposing to determine that a drug described in subsection (a)(3) is not generally recognized as safe and effective under section 201(p)(1), the Secretary shall follow the procedures in subparagraph (A), except that—

“(i) the proposed order shall include notice of—

“(I) the general categories of data the Secretary has determined necessary to establish that the drug is generally recognized as safe and effective under section 201(p)(1); and

“(II) the format for submissions by interested persons;

“(ii) the Secretary shall provide for a public comment period of no less than 180 calendar days with respect to such proposed order, except when the Secretary determines, for good cause, that a shorter period is in the interest of public health; and

“(iii) any person who submits data in such comment period shall include a certification that the person has submitted all evidence created, obtained, or received by that person that is both within the categories of data identified in the proposed order and relevant

to a determination as to whether the drug is generally recognized as safe and effective under section 201(p)(1).

“(3) HEARINGS; JUDICIAL REVIEW.—

“(A) IN GENERAL.—Only a person who participated in each stage of formal dispute resolution under subclause (III) of paragraph (2)(A)(iv) of an administrative order with respect to a drug may request a hearing concerning a final administrative order issued under such paragraph with respect to such drug. If a hearing is sought, such person must submit a request for a hearing, which shall be based solely on information in the administrative record, to the Secretary not later than 30 calendar days after receiving notice of the final decision of the formal dispute resolution procedure.

“(B) NO HEARING REQUIRED WITH RESPECT TO ORDERS RELATING TO CERTAIN DRUGS.—

“(i) IN GENERAL.—The Secretary shall not be required to provide notice and an opportunity for a hearing pursuant to paragraph (2)(A)(iv) if the final administrative order involved relates to a drug—

“(I) that is described in subsection (a)(3)(A); and

“(II) with respect to which no human or non-human data studies relevant to the safety or effectiveness of such drug have been submitted to the administrative record since the issuance of the most recent tentative final monograph relating to such drug.

“(ii) HUMAN DATA STUDIES AND NON-HUMAN DATA DEFINED.—In this subparagraph:

“(I) The term ‘human data studies’ means clinical trials of safety or effectiveness (including actual use studies), pharmacokinetics studies, or bioavailability studies.

“(II) The term ‘non-human data’ means data from testing other than with human subjects which provides information concerning safety or effectiveness.

“(C) HEARING PROCEDURES.—

“(i) DENIAL OF REQUEST FOR HEARING.—If the Secretary determines that information submitted in a request for a hearing under subparagraph (A) with respect to a final administrative order issued under paragraph (2)(A)(iv) does not identify the existence of a genuine and substantial question of material fact, the Secretary may deny such request. In making such a determination, the Secretary may consider only information and data that are based on relevant and reliable scientific principles and methodologies.

“(ii) SINGLE HEARING FOR MULTIPLE RELATED REQUESTS.—If more than one request for a hearing is submitted with respect to the same administrative order under subparagraph (A), the Secretary may direct that a single hearing be conducted in which all persons whose hearing requests were granted may participate.

“(iii) PRESIDING OFFICER.—The presiding officer of a hearing requested under subparagraph (A) shall—

“(I) be designated by the Secretary;

“(II) not be an employee of the Center for Drug Evaluation and Research; and

“(III) not have been previously involved in the development of the administrative order involved or proceedings relating to that administrative order.

“(iv) RIGHTS OF PARTIES TO HEARING.—The parties to a hearing requested under subparagraph (A) shall have the right to present testimony, including testimony of expert witnesses, and to cross-examine witnesses presented by other parties. Where appropriate, the presiding officer may require that cross-examination by parties representing substantially the same interests be consolidated to promote efficiency and avoid duplication.

“(v) FINAL DECISION.—

“(I) At the conclusion of a hearing requested under subparagraph (A), the pre-

siding officer of the hearing shall issue a decision containing findings of fact and conclusions of law. The decision of the presiding officer shall be final.

“(II) The final decision may not take effect until the period under subparagraph (D)(ii) for submitting a request for judicial review of such decision expires.

“(D) JUDICIAL REVIEW OF FINAL ADMINISTRATIVE ORDER.—

“(i) IN GENERAL.—The procedures described in section 505(h) shall apply with respect to judicial review of final administrative orders issued under this subsection in the same manner and to the same extent as such section applies to an order described in such section except that the judicial review shall be taken by filing in an appropriate district court of the United States in lieu of the appellate courts specified in such section.

“(ii) PERIOD TO SUBMIT A REQUEST FOR JUDICIAL REVIEW.—A person eligible to request a hearing under this paragraph and seeking judicial review of a final administrative order issued under this subsection shall file such request for judicial review not later than 60 calendar days after the latest of—

“(I) the date on which notice of such order is published;

“(II) the date on which a hearing with respect to such order is denied under subparagraph (B) or (C)(i);

“(III) the date on which a final decision is made following a hearing under subparagraph (C)(v); or

“(IV) if no hearing is requested, the date on which the time for requesting a hearing expires.

“(4) EXPEDITED PROCEDURE WITH RESPECT TO ADMINISTRATIVE ORDERS INITIATED BY THE SECRETARY.—

“(A) IMMINENT HAZARD TO THE PUBLIC HEALTH.—

“(i) IN GENERAL.—In the case of a determination by the Secretary that a drug, class of drugs, or combination of drugs subject to this section poses an imminent hazard to the public health, the Secretary, after first making reasonable efforts to notify, not later than 48 hours before issuance of such order under this subparagraph, sponsors who have a listing in effect under section 510(j) for such drug or combination of drugs—

“(I) may issue an interim final administrative order for such drug, class of drugs, or combination of drugs under paragraph (1), together with a detailed statement of the reasons for such order;

“(II) shall publish in the Federal Register a notice of availability of any such order; and

“(III) shall provide for a public comment period of at least 45 calendar days with respect to such interim final order.

“(ii) NONDELEGATION.—The Secretary may not delegate the authority to issue an interim final administrative order under this subparagraph.

“(B) SAFETY LABELING CHANGES.—

“(i) IN GENERAL.—In the case of a determination by the Secretary that a change in the labeling of a drug, class of drugs, or combination of drugs subject to this section is reasonably expected to mitigate a significant or unreasonable risk of a serious adverse event associated with use of the drug, the Secretary may—

“(I) make reasonable efforts to notify informally, not later than 48 hours before the issuance of the interim final order, the sponsors of drugs who have a listing in effect under section 510(j) for such drug or combination of drugs;

“(II) after reasonable efforts of notification, issue an interim final administrative order in accordance with paragraph (1) to require such change, together with a detailed statement of the reasons for such order;

“(III) publish in the Federal Register a notice of availability of such order; and

“(IV) provide for a public comment period of at least 45 calendar days with respect to such interim final order.

“(ii) CONTENT OF ORDER.—An interim final order issued under this subparagraph with respect to the labeling of a drug may provide for new warnings and other information required for safe use of the drug.

“(C) EFFECTIVE DATE.—An order under subparagraph (A) or (B) shall take effect on a date specified by the Secretary.

“(D) FINAL ORDER.—After the completion of the proceedings in subparagraph (A) or (B), the Secretary shall—

“(i) issue a final order in accordance with paragraph (1);

“(ii) publish a notice of availability of such final administrative order in the Federal Register; and

“(iii) afford sponsors of such drugs that will be subject to such an order the opportunity for formal dispute resolution up to the level of the Director of the Center for Drug Evaluation and Research, which must initially be within 45 calendar days of the issuance of the order, and for subsequent levels of appeal, within 30 calendar days of the prior decision.

“(E) HEARINGS.—A sponsor of a drug subject to a final order issued under subparagraph (D) and that participated in each stage of formal dispute resolution under clause (iii) of such subparagraph may request a hearing on such order. The provisions of subparagraphs (A), (B), and (C) of paragraph (3), other than paragraph (3)(C)(v)(II), shall apply with respect to a hearing on such order in the same manner and to the same extent as such provisions apply with respect to a hearing on an administrative order issued under paragraph (2)(A)(iv).

“(F) TIMING.—

“(i) FINAL ORDER AND HEARING.—The Secretary shall—

“(I) not later than 6 months after the date on which the comment period closes under subparagraph (A) or (B), issue a final order in accordance with paragraph (1); and

“(II) not later than 12 months after the date on which such final order is issued, complete any hearing under subparagraph (E).

“(ii) DISPUTE RESOLUTION REQUEST.—The Secretary shall specify in an interim final order issued under subparagraph (A) or (B) such shorter periods for requesting dispute resolution under subparagraph (D)(iii) as are necessary to meet the requirements of this subparagraph.

“(G) JUDICIAL REVIEW.—A final order issued pursuant to subparagraph (F) shall be subject to judicial review in accordance with paragraph (3)(D).

“(5) ADMINISTRATIVE ORDER INITIATED AT THE REQUEST OF A REQUESTOR.—

“(A) IN GENERAL.—In issuing an administrative order under paragraph (1) at the request of a requestor with respect to certain drugs, classes of drugs, or combinations of drugs—

“(i) the Secretary shall, after receiving a request under this subparagraph, determine whether the request is sufficiently complete and formatted to permit a substantive review;

“(ii) if the Secretary determines that the request is sufficiently complete and formatted to permit a substantive review, the Secretary shall—

“(I) file the request; and

“(II) initiate proceedings with respect to issuing an administrative order in accordance with paragraphs (2) and (3); and

“(iii) except as provided in paragraph (6), if the Secretary determines that a request does not meet the requirements for filing or is not

sufficiently complete and formatted to permit a substantive review, the requestor may demand that the request be filed over protest, and the Secretary shall initiate proceedings to review the request in accordance with paragraph (2)(A).

“(B) REQUEST TO INITIATE PROCEEDINGS.—

“(i) IN GENERAL.—A requestor seeking an administrative order under paragraph (1) with respect to certain drugs, classes of drugs, or combinations of drugs, shall submit to the Secretary a request to initiate proceedings for such order in the form and manner as specified by the Secretary. Such requestor may submit a request under this subparagraph for the issuance of an administrative order—

“(I) determining whether a drug is generally recognized as safe and effective under section 201(p)(1), exempt from section 503(b)(1), and not required to be the subject of an approved application under section 505; or

“(II) determining whether a change to a condition of use of a drug is generally recognized as safe and effective under section 201(p)(1), exempt from section 503(b)(1), and not required to be the subject of an approved application under section 505, if, absent such a changed condition of use, such drug is—

“(aa) generally recognized as safe and effective under section 201(p)(1) in accordance with subsection (a)(1), (a)(2), or an order under this subsection; or

“(bb) subject to subsection (a)(3), but only if such requestor initiates such request in conjunction with a request for the Secretary to determine whether such drug is generally recognized as safe and effective under section 201(p)(1), which is filed by the Secretary under subparagraph (A)(ii).

“(ii) EXCEPTION.—The Secretary is not required to complete review of a request for a change described in clause (i)(II) if the Secretary determines that there is an inadequate basis to find the drug is generally recognized as safe and effective under section 201(p)(1) under paragraph (1) and issues a final order announcing that determination.

“(iii) WITHDRAWAL.—The requestor may withdraw a request under this paragraph, according to the procedures set forth pursuant to subsection (d)(2)(B). Notwithstanding any other provision of this section, if such request is withdrawn, the Secretary may cease proceedings under this subparagraph.

“(C) EXCLUSIVITY.—

“(i) IN GENERAL.—A final administrative order issued in response to a request under this section shall have the effect of authorizing solely the order requestor (or the licensees, assignees, or successors in interest of such requestor with respect to the subject of such order), for a period of 18 months following the effective date of such final order and beginning on the date the requestor may lawfully market such drugs pursuant to the order, to market drugs—

“(I) incorporating changes described in clause (ii); and

“(II) subject to the limitations under clause (iv).

“(ii) CHANGES DESCRIBED.—A change described in this clause is a change subject to an order specified in clause (i), which—

“(I) provides for a drug to contain an active ingredient (including any ester or salt of the active ingredient) not previously incorporated in a drug described in clause (iii); or

“(II) provides for a change in the conditions of use of a drug, for which new human data studies conducted or sponsored by the requestor (or for which the requestor has an exclusive right of reference) were essential to the issuance of such order.

“(iii) DRUGS DESCRIBED.—The drugs described in this clause are drugs—

“(I) specified in subsection (a)(1), (a)(2), or (a)(3);

“(II) subject to a final order issued under this section;

“(III) subject to a final sunscreen order (as defined in section 586(2)(A)); or

“(IV) described in subsection (m)(1), other than drugs subject to an active enforcement action under chapter III of this Act.

“(iv) LIMITATIONS ON EXCLUSIVITY.—

“(I) IN GENERAL.—Only one 18-month period under this subparagraph shall be granted, under each order described in clause (i), with respect to changes (to the drug subject to such order) which are either—

“(aa) changes described in clause (ii)(I), relating to active ingredients; or

“(bb) changes described in clause (ii)(II), relating to conditions of use.

“(II) NO EXCLUSIVITY ALLOWED.—No exclusivity shall apply to changes to a drug which are—

“(aa) the subject of a Tier 2 OTC monograph order request (as defined in section 744L);

“(bb) safety-related changes, as defined by the Secretary, or any other changes the Secretary considers necessary to assure safe use; or

“(cc) changes related to methods of testing safety or efficacy.

“(v) NEW HUMAN DATA STUDIES DEFINED.—In this subparagraph, the term ‘new human data studies’ means clinical trials of safety or effectiveness (including actual use studies), pharmacokinetics studies, or bioavailability studies, the results of which—

“(I) have not been relied on by the Secretary to support—

“(aa) a proposed or final determination that a drug described in subclause (I), (II), or (III) of clause (iii) is generally recognized as safe and effective under section 201(p)(1); or

“(bb) approval of a drug that was approved under section 505; and

“(II) do not duplicate the results of another study that was relied on by the Secretary to support—

“(aa) a proposed or final determination that a drug described in subclause (I), (II), or (III) of clause (iii) is generally recognized as safe and effective under section 201(p)(1); or

“(bb) approval of a drug that was approved under section 505.

“(vi) NOTIFICATION OF DRUG NOT AVAILABLE FOR SALE.—A requestor that is granted exclusivity with respect to a drug under this subparagraph shall notify the Secretary in writing within 1 year of the issuance of the final administrative order if the drug that is the subject of such order will not be available for sale within 1 year of the date of issuance of such order. The requestor shall include with such notice the—

“(I) identity of the drug by established name and by proprietary name, if any;

“(II) strength of the drug;

“(III) date on which the drug will be available for sale, if known; and

“(IV) reason for not marketing the drug after issuance of the order.

“(6) INFORMATION REGARDING SAFE NON-PRESCRIPTION MARKETING AND USE AS CONDITION FOR FILING A GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE REQUEST.—

“(A) IN GENERAL.—In response to a request under this section that a drug described in subparagraph (B) be generally recognized as safe and effective, the Secretary—

“(i) may file such request, if the request includes information specified under subparagraph (C) with respect to safe non-prescription marketing and use of such drug; or

“(ii) if the request fails to include information specified under subparagraph (C), shall refuse to file such request and require that nonprescription marketing of the drug be

pursuant to a new drug application as described in subparagraph (D).

“(B) DRUG DESCRIBED.—A drug described in this subparagraph is a nonprescription drug which contains an active ingredient not previously incorporated in a drug—

“(i) specified in subsection (a)(1), (a)(2), or (a)(3);

“(ii) subject to a final order under this section; or

“(iii) subject to a final sunscreen order (as defined in section 586(2)(A)).

“(C) INFORMATION DEMONSTRATING PRIMA FACIE SAFE NONPRESCRIPTION MARKETING AND USE.—Information specified in this subparagraph, with respect to a request described in subparagraph (A)(i), is—

“(i) information sufficient for a prima facie demonstration that the drug subject to such request has a verifiable history of being marketed and safely used by consumers in the United States as a nonprescription drug under comparable conditions of use;

“(ii) if the drug has not been previously marketed in the United States as a nonprescription drug, information sufficient for a prima facie demonstration that the drug was marketed and safely used under comparable conditions of marketing and use in a country listed in section 802(b)(1)(A) or designated by the Secretary in accordance with section 802(b)(1)(B)—

“(I) for such period as needed to provide reasonable assurances concerning the safe nonprescription use of the drug; and

“(II) during such time was subject to sufficient monitoring by a regulatory body considered acceptable by the Secretary for such monitoring purposes, including for adverse events associated with nonprescription use of the drug; or

“(iii) if the Secretary determines that information described in clause (i) or (ii) is not needed to provide a prima facie demonstration that the drug can be safely marketed and used as a nonprescription drug, such other information the Secretary determines is sufficient for such purposes.

“(D) MARKETING PURSUANT TO NEW DRUG APPLICATION.—In the case of a request described in subparagraph (A)(ii), the drug subject to such request may be resubmitted for filing only if—

“(i) the drug is marketed as a nonprescription drug, under conditions of use comparable to the conditions specified in the request, for such period as the Secretary determines appropriate (not to exceed 5 consecutive years) pursuant to an application approved under section 505; and

“(ii) during such period, 1,000,000 retail packages of the drug, or an equivalent quantity as determined by the Secretary, were distributed for retail sale, as determined in such manner as the Secretary finds appropriate.

“(E) RULE OF APPLICATION.—Except in the case of a request involving a drug described in section 586(9), as in effect on January 1, 2017, if the Secretary refuses to file a request under this paragraph, the requestor may not file such request over protest under paragraph (5)(A)(iii).

“(7) PACKAGING.—An administrative order issued under paragraph (2), (4)(A), or (5) may include requirements for the packaging of a drug to encourage use in accordance with labeling. Such requirements may include unit dose packaging, requirements for products intended for use by pediatric populations, requirements to reduce risk of harm from unsupervised ingestion, and other appropriate requirements. This paragraph does not authorize the Food and Drug Administration to require standards or testing procedures as described in part 1700 of title 16, Code of Federal Regulations.

“(8) FINAL AND TENTATIVE FINAL MONOGRAPHS FOR CATEGORY I DRUGS DEEMED FINAL ADMINISTRATIVE ORDERS.—

“(A) IN GENERAL.—A final monograph or tentative final monograph described in subparagraph (B) shall be deemed to be a final administrative order under this subsection and may be amended, revoked, or otherwise modified in accordance with the procedures of this subsection.

“(B) MONOGRAPHS DESCRIBED.—For purposes of subparagraph (A), a final monograph or tentative final monograph is described in this subparagraph if it—

“(i) establishes conditions of use for a drug described in paragraph (1) or (2) of subsection (a); and

“(ii) represents the most recently promulgated version of such conditions, including as modified, in whole or in part, by any proposed or final rule.

“(C) DEEMED ORDERS INCLUDE HARMONIZING TECHNICAL AMENDMENTS.—The deemed establishment of a final administrative order under subparagraph (A) shall be construed to include any technical amendments to such order as the Secretary determines necessary to ensure that such order is appropriately harmonized, in terms of terminology or cross-references, with the applicable provisions of this Act (and regulations thereunder) and any other orders issued under this section.

“(c) PROCEDURE FOR MINOR CHANGES.—

“(1) IN GENERAL.—Minor changes in the dosage form of a drug that is described in paragraph (1) or (2) of subsection (a) or the subject of an order issued under subsection (b) may be made by a requestor without the issuance of an order under subsection (b) if—

“(A) the requestor maintains such information as is necessary to demonstrate that the change—

“(i) will not affect the safety or effectiveness of the drug; and

“(ii) will not materially affect the extent of absorption or other exposure to the active ingredient in comparison to a suitable reference product; and

“(B) the change is in conformity with the requirements of an applicable administrative order issued by the Secretary under paragraph (3).

“(2) ADDITIONAL INFORMATION.—

“(A) ACCESS TO RECORDS.—A sponsor shall submit records requested by the Secretary relating to such a minor change under section 704(a)(4), within 15 business days of receiving such a request, or such longer period as the Secretary may provide.

“(B) INSUFFICIENT INFORMATION.—If the Secretary determines that the information contained in such records is not sufficient to demonstrate that the change does not affect the safety or effectiveness of the drug or materially affect the extent of absorption or other exposure to the active ingredient, the Secretary—

“(i) may so inform the sponsor of the drug in writing; and

“(ii) if the Secretary so informs the sponsor, shall provide the sponsor of the drug with a reasonable opportunity to provide additional information.

“(C) FAILURE TO SUBMIT SUFFICIENT INFORMATION.—If the sponsor fails to provide such additional information within a time prescribed by the Secretary, or if the Secretary determines that such additional information does not demonstrate that the change does not—

“(i) affect the safety or effectiveness of the drug; or

“(ii) materially affect the extent of absorption or other exposure to the active ingredient in comparison to a suitable reference product,

the drug as modified is a new drug under section 201(p) and shall be deemed to be misbranded under section 502(ee).

“(3) DETERMINING WHETHER A CHANGE WILL AFFECT SAFETY OR EFFECTIVENESS.—

“(A) IN GENERAL.—The Secretary shall issue one or more administrative orders specifying requirements for determining whether a minor change made by a sponsor pursuant to this subsection will affect the safety or effectiveness of a drug or materially affect the extent of absorption or other exposure to an active ingredient in the drug in comparison to a suitable reference product, together with guidance for applying those orders to specific dosage forms.

“(B) STANDARD PRACTICES.—The orders and guidance issued by the Secretary under subparagraph (A) shall take into account relevant public standards and standard practices for evaluating the quality of drugs, and may take into account the special needs of populations, including children.

“(d) CONFIDENTIALITY OF INFORMATION SUBMITTED TO THE SECRETARY.—

“(1) IN GENERAL.—Subject to paragraph (2), any information, including reports of testing conducted on the drug or drugs involved, that is submitted by a requestor in connection with proceedings on an order under this section (including any minor change under subsection (c)) and is a trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code, shall not be disclosed to the public unless the requestor consents to that disclosure.

“(2) PUBLIC AVAILABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall—

“(i) make any information submitted by a requestor in support of a request under subsection (b)(5)(A) available to the public not later than the date on which the proposed order is issued; and

“(ii) make any information submitted by any other person with respect to an order requested (or initiated by the Secretary) under subsection (b), available to the public upon such submission.

“(B) LIMITATIONS ON PUBLIC AVAILABILITY.—Information described in subparagraph (A) shall not be made public if—

“(i) the information pertains to pharmaceutical quality information, unless such information is necessary to establish standards under which a drug is generally recognized as safe and effective under section 201(p)(1);

“(ii) the information is submitted in a requestor-initiated request, but the requestor withdraws such request, in accordance with withdrawal procedures established by the Secretary, before the Secretary issues the proposed order;

“(iii) the Secretary requests and obtains the information under subsection (c) and such information is not submitted in relation to an order under subsection (b); or

“(iv) the information is of the type contained in raw datasets.

“(e) UPDATES TO DRUG LISTING INFORMATION.—A sponsor who makes a change to a drug subject to this section shall submit updated drug listing information for the drug in accordance with section 510(j) within 30 calendar days of the date when the drug is first commercially marketed, except that a sponsor who was the order requestor with respect to an order subject to subsection (b)(5)(C) (or a licensee, assignee, or successor in interest of such requestor) shall submit updated drug listing information on or before the date when the drug is first commercially marketed.

“(f) APPROVALS UNDER SECTION 505.—The provisions of this section shall not be construed to preclude a person from seeking or maintaining the approval of an application

for a drug under sections 505(b)(1), 505(b)(2), and 505(j). A determination under this section that a drug is not subject to section 503(b)(1), is generally recognized as safe and effective under section 201(p)(1), and is not a new drug under section 201(p) shall constitute a finding that the drug is safe and effective that may be relied upon for purposes of an application under section 505(b)(2), so that the applicant shall be required to submit for purposes of such application only information needed to support any modification of the drug that is not covered by such determination under this section.

“(g) PUBLIC AVAILABILITY OF ADMINISTRATIVE ORDERS.—The Secretary shall establish, maintain, update (as determined necessary by the Secretary but no less frequently than annually), and make publicly available, with respect to orders issued under this section—

“(1) a repository of each final order and interim final order in effect, including the complete text of the order; and

“(2) a listing of all orders proposed and under development under subsection (b)(2), including—

“(A) a brief description of each such order; and

“(B) the Secretary's expectations, if resources permit, for issuance of proposed orders under a 3-year period.

“(h) DEVELOPMENT ADVICE TO SPONSORS OR REQUESTORS.—The Secretary shall establish procedures under which sponsors or requestors may meet with appropriate officials of the Food and Drug Administration to obtain advice on the studies and other information necessary to support submissions under this section and other matters relevant to the regulation of nonprescription drugs and the development of new nonprescription drugs under this section.

“(i) PARTICIPATION OF MULTIPLE SPONSORS OR REQUESTORS.—The Secretary shall establish procedures to facilitate efficient participation by multiple sponsors or requestors in proceedings under this section, including provision for joint meetings with multiple sponsors or requestors or with organizations nominated by sponsors or requestors to represent their interests in a proceeding.

“(j) ELECTRONIC FORMAT.—All submissions under this section shall be in electronic format.

“(k) EFFECT ON EXISTING REGULATIONS GOVERNING NONPRESCRIPTION DRUGS.—

“(1) REGULATIONS OF GENERAL APPLICABILITY TO NONPRESCRIPTION DRUGS.—Except as provided in this subsection, nothing in this section supersedes regulations establishing general requirements for nonprescription drugs, including regulations of general applicability contained in parts 201, 250, and 330 of title 21, Code of Federal Regulations, or any successor regulations. The Secretary shall establish or modify such regulations by means of rulemaking in accordance with section 553 of title 5, United States Code.

“(2) REGULATIONS ESTABLISHING REQUIREMENTS FOR SPECIFIC NONPRESCRIPTION DRUGS.—

“(A) The provisions of section 310.545 of title 21, Code of Federal Regulations, as in effect on the day before the date of the enactment of this section, shall be deemed to be a final order under subsection (b).

“(B) Regulations in effect on the day before the date of the enactment of this section, establishing requirements for specific nonprescription drugs marketed pursuant to this section (including such requirements in parts 201 and 250 of title 21, Code of Federal Regulations), shall be deemed to be final orders under subsection (b), only as they apply to drugs—

“(i) subject to paragraph (1), (2), (3), or (4) of subsection (a); or

“(ii) otherwise subject to an order under this section.

“(3) WITHDRAWAL OF REGULATIONS.—The Secretary shall withdraw regulations establishing final monographs and the procedures governing the over-the-counter drug review under part 330 and other relevant parts of title 21, Code of Federal Regulations (as in effect on the day before the date of the enactment of this section), or make technical changes to such regulations to ensure conformity with appropriate terminology and cross references. Notwithstanding subchapter II of chapter 5 of title 5, United States Code, any such withdrawal or technical changes shall be made without public notice and comment and shall be effective upon publication through notice in the Federal Register (or upon such date as specified in such notice).

“(1) GUIDANCE.—The Secretary shall issue guidance that specifies—

“(1) the procedures and principles for formal meetings between the Secretary and sponsors or requestors for drugs subject to this section;

“(2) the format and content of data submissions to the Secretary under this section;

“(3) the format of electronic submissions to the Secretary under this section;

“(4) consolidated proceedings for appeal and the procedures for such proceedings where appropriate; and

“(5) for minor changes in drugs, recommendations on how to comply with the requirements in orders issued under subsection (c)(3).

“(m) RULE OF CONSTRUCTION.—

“(1) IN GENERAL.—This section shall not affect the treatment or status of a nonprescription drug—

“(A) that is marketed without an application approved under section 505 as of the date of the enactment of this section;

“(B) that is not subject to an order issued under this section; and

“(C) to which paragraph (1), (2), (3), (4), or (5) of subsection (a) do not apply.

“(2) TREATMENT OF PRODUCTS PREVIOUSLY FOUND TO BE SUBJECT TO TIME AND EXTENT REQUIREMENTS.—

“(A) Notwithstanding subsection (a), a drug described in subparagraph (B) may only be lawfully marketed, without an application approved under section 505, pursuant to an order issued under this section.

“(B) A drug described in this subparagraph is a drug which, prior to the date of the enactment of this section, the Secretary determined in a proposed or final rule to be ineligible for review under the OTC drug review (as such phrase ‘OTC drug review’ was used in section 330.14 of title 21, Code of Federal Regulations, as in effect on the day before the date of the enactment of this section).

“(3) PRESERVATION OF AUTHORITY.—

“(A) Nothing in paragraph (1) shall be construed to preclude or limit the applicability of any provision of this Act other than this section.

“(B) Nothing in subsection (a) shall be construed to prohibit the Secretary from issuing an order under this section finding a drug to be not generally recognized as safe and effective under section 201(p)(1), as the Secretary determines appropriate.

“(n) INVESTIGATIONAL NEW DRUGS.—A drug is not subject to this section if an exemption for investigational use under section 505(i) is in effect for such drug.

“(o) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code, shall not apply to collections of information made under this section.

“(p) INAPPLICABILITY OF NOTICE AND COMMENT RULEMAKING AND OTHER REQUIREMENTS.—The requirements of subsection (b) shall apply with respect to orders issued

under this section instead of the requirements of subchapter II of chapter 5 of title 5, United States Code.

“(q) DEFINITIONS.—In this section:

“(1) The term ‘nonprescription drug’ refers to a drug not subject to the requirements of section 503(b)(1).

“(2) The term ‘sponsor’ refers to any person marketing, manufacturing, or processing a drug that—

“(A) is listed pursuant to section 510(j); and

“(B) is or will be subject to an administrative order under this section of the Food and Drug Administration.

“(3) The term ‘requestor’ refers to any person or group of persons marketing, manufacturing, processing, or developing a drug.”.

(b) GAO STUDY.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate addressing the effectiveness and overall impact of exclusivity under section 505G of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and section 586C of such Act (21 U.S.C. 360fff-3), including the impact of such exclusivity on consumer access. Such study shall include—

(1) an analysis of the impact of exclusivity under such section 505G for nonprescription drug products, including—

(A) the number of nonprescription drug products that were granted exclusivity and the indication for which the nonprescription drug products were determined to be generally recognized as safe and effective;

(B) whether the exclusivity for such drug products was granted for—

(i) a new active ingredient (including any ester or salt of the active ingredient); or

(ii) changes in the conditions of use of a drug, for which new human data studies conducted or sponsored by the requestor were essential;

(C) whether, and to what extent, the exclusivity impacted the requestor’s or sponsor’s decision to develop the drug product;

(D) an analysis of the implementation of the exclusivity provision in such section 505G, including—

(i) the resources used by the Food and Drug Administration;

(ii) the impact of such provision on innovation, as well as research and development in the nonprescription drug market;

(iii) the impact of such provision on competition in the nonprescription drug market;

(iv) the impact of such provision on consumer access to nonprescription drug products;

(v) the impact of such provision on the prices of nonprescription drug products; and

(vi) whether the administrative orders initiated by requestors under such section 505G have been sufficient to encourage the development of nonprescription drug products that would likely not be otherwise developed, or developed in as timely a manner; and

(E) whether the administrative orders initiated by requestors under such section 505G have been sufficient incentive to encourage innovation in the nonprescription drug market; and

(2) an analysis of the impact of exclusivity under such section 586C for sunscreen ingredients, including—

(A) the number of sunscreen ingredients that were granted exclusivity and the specific ingredient that was determined to be generally recognized as safe and effective;

(B) whether, and to what extent, the exclusivity impacted the requestor’s or sponsor’s decision to develop the sunscreen ingredient;

(C) whether, and to what extent, the sunscreen ingredient granted exclusivity had previously been available outside of the United States;

(D) an analysis of the implementation of the exclusivity provision in such section 586C, including—

(i) the resources used by the Food and Drug Administration;

(ii) the impact of such provision on innovation, as well as research and development in the sunscreen market;

(iii) the impact of such provision on competition in the sunscreen market;

(iv) the impact of such provision on consumer access to sunscreen products;

(v) the impact of such provision on the prices of sunscreen products; and

(vi) whether the administrative orders initiated by requestors under such section 505G have been utilized by sunscreen ingredient sponsors and whether such process has been sufficient to encourage the development of sunscreen ingredients that would likely not be otherwise developed, or developed in as timely a manner; and

(E) whether the administrative orders initiated by requestors under such section 586C have been sufficient incentive to encourage innovation in the sunscreen market.

(c) CONFORMING AMENDMENT.—Section 751(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379r(d)(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking “final regulation promulgated” and inserting “final order under section 505G”; and

(B) by striking “and not misbranded”; and

(2) in subparagraph (A), by striking “regulation in effect” and inserting “regulation or order in effect”.

#### SEC. 102. MISBRANDING.

Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

“(ee) If it is a nonprescription drug that is subject to section 505G, is not the subject of an application approved under section 505, and does not comply with the requirements under section 505G.

“(ff) If it is a drug and it was manufactured, prepared, propagated, compounded, or processed in a facility for which fees have not been paid as required by section 744M.”.

#### SEC. 103. DRUGS EXCLUDED FROM THE OVER-THE-COUNTER DRUG REVIEW.

(a) IN GENERAL.—Nothing in this Act (or the amendments made by this Act) shall apply to any nonprescription drug (as defined in section 505G(q) of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act) which was excluded by the Food and Drug Administration from the Over-the-Counter Drug Review in accordance with the paragraph numbered 25 on page 9466 of volume 37 of the Federal Register, published on May 11, 1972.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude or limit the applicability of any other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

#### SEC. 104. TREATMENT OF SUNSCREEN INNOVATION ACT.

(a) REVIEW OF NONPRESCRIPTION SUNSCREEN ACTIVE INGREDIENTS.—

(1) APPLICATION OF SECTION 505G FOR PENDING SUBMISSIONS.—

(A) IN GENERAL.—A sponsor of a nonprescription sunscreen active ingredient or combination of nonprescription sunscreen active ingredients that, as of the date of enactment of this Act, is subject to a proposed sunscreen order under section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-3) may elect, by means of giving

written notification to the Secretary of Health and Human Services within 180 calendar days of the enactment of this Act, to transition into the review of such ingredient or combination of ingredients pursuant to the process set out in section 505G of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act.

(B) ELECTION EXERCISED.—Upon receipt by the Secretary of Health and Human Services of a timely notification under subparagraph (A)—

(i) the proposed sunscreen order involved is deemed to be a request for an order under subsection (b) of section 505G of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act; and

(ii) such order is deemed to have been accepted for filing under subsection (b)(6)(A)(i) of such section 505G.

(C) ELECTION NOT EXERCISED.—If a notification under subparagraph (A) is not received by the Secretary of Health and Human Services within 180 calendar days of the date of enactment of this Act, the review of the proposed sunscreen order described in subparagraph (A)—

(i) shall continue under section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-3); and

(ii) shall not be eligible for review under section 505G, added by section 101 of this Act.

(2) DEFINITIONS.—In this subsection, the terms “sponsor”, “nonprescription”, “sunscreen active ingredient”, and “proposed sunscreen order” have the meanings given to those terms in section 586 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff).

(b) AMENDMENTS TO SUNSCREEN PROVISIONS.—

(1) FINAL SUNSCREEN ORDERS.—Paragraph (3) of section 586C(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-3(e)) is amended to read as follows:

“(3) RELATIONSHIP TO ORDERS UNDER SECTION 505G.—A final sunscreen order shall be deemed to be a final order under section 505G.”.

(2) MEETINGS.—Paragraph (7) of section 586C(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-3(b)) is amended—

(A) by striking “A sponsor may request” and inserting the following:

“(A) IN GENERAL.—A sponsor may request”;

and

(B) by adding at the end the following:

“(B) CONFIDENTIAL MEETINGS.—A sponsor may request one or more confidential meetings with respect to a proposed sunscreen order, including a letter deemed to be a proposed sunscreen order under paragraph (3), to discuss matters relating to data requirements to support a general recognition of safety and effectiveness involving confidential information and public information related to such proposed sunscreen order, as appropriate. The Secretary shall convene a confidential meeting with such sponsor in a reasonable time period. If a sponsor requests more than one confidential meeting for the same proposed sunscreen order, the Secretary may refuse to grant an additional confidential meeting request if the Secretary determines that such additional confidential meeting is not reasonably necessary for the sponsor to advance its proposed sunscreen order, or if the request for a confidential meeting fails to include sufficient information upon which to base a substantive discussion. The Secretary shall publish a post-meeting summary of each confidential meeting under this subparagraph that does not disclose confidential commercial information or trade secrets. This subparagraph does not authorize the disclosure of confidential commercial information or trade secrets

subject to 552(b)(4) of title 5, United States Code, or section 1905 of title 18, United States Code.”.

(3) EXCLUSIVITY.—Section 586C of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-3) is amended by adding at the end the following:

“(f) EXCLUSIVITY.—

“(1) IN GENERAL.—A final sunscreen order shall have the effect of authorizing solely the order requestor (or the licensees, assignees, or successors in interest of such requestor with respect to the subject of such request and listed under paragraph (5)) for a period of 18 months, to market a sunscreen ingredient under this section incorporating changes described in paragraph (2) subject to the limitations under paragraph (4), beginning on the date the requestor (or any licensees, assignees, or successors in interest of such requestor with respect to the subject of such request and listed under paragraph (5)) may lawfully market such sunscreen ingredient pursuant to the order.

“(2) CHANGES DESCRIBED.—A change described in this paragraph is a change subject to an order specified in paragraph (1) that permits a sunscreen to contain an active sunscreen ingredient not previously incorporated in a marketed sunscreen listed in paragraph (3).

“(3) MARKETED SUNSCREEN.—The marketed sunscreen ingredients described in this paragraph are sunscreen ingredients—

“(A) marketed in accordance with a final monograph for sunscreen drug products set forth at part 352 of title 21, Code of Federal Regulations (as published at 64 Fed. Reg. 27687); or

“(B) marketed in accordance with a final order issued under this section.

“(4) LIMITATIONS ON EXCLUSIVITY.—Only one 18-month period may be granted per ingredient under paragraph (1).

“(5) LISTING OF LICENSEES, ASSIGNEES, OR SUCCESSORS IN INTEREST.—Requestors shall submit to the Secretary at the time when a drug subject to such request is introduced or delivered for introduction into interstate commerce, a list of licensees, assignees, or successors in interest under paragraph (1).”.

(4) SUNSET PROVISION.—Subchapter I of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff et seq.) is amended by adding at the end the following:

“SEC. 586H. SUNSET.

“This subchapter shall cease to be effective at the end of fiscal year 2022.”.

(5) TREATMENT OF FINAL SUNSCREEN ORDER.—The Federal Food, Drug, and Cosmetic Act is amended by striking section 586E of such Act (21 U.S.C. 360fff-5).

(c) TREATMENT OF AUTHORITY REGARDING FINALIZATION OF SUNSCREEN MONOGRAPH.—

(1) IN GENERAL.—

(A) REVISION OF FINAL SUNSCREEN ORDER.—The Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall amend and revise the final administrative order concerning nonprescription sunscreen (referred to in this subsection as the “sunscreen order”) for which the content, prior to the date of enactment of this Act, was represented by the final monograph for sunscreen drug products set forth in part 352 of title 21, Code of Federal Regulations (as in effect on May 21, 1999).

(B) ISSUANCE OF REVISED SUNSCREEN ORDER; EFFECTIVE DATE.—A revised sunscreen order described in subparagraph (A) shall be—

(i) issued in accordance with the procedures described in section 505G(b)(2) of the Federal Food, Drug, and Cosmetic Act;

(ii) issued in proposed form not later than 18 months after the date of enactment of this Act; and

(iii) issued by the Secretary at least 1 year prior to the effective date of the revised order.

(2) REPORTS.—If a revised sunscreen order issued under paragraph (1) does not include provisions related to the effectiveness of various sun protection factor levels, and does not address all dosage forms known to the Secretary to be used in sunscreens marketed in the United States without a new drug application approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on the rationale for omission of such provisions from such order, and a plan and timeline to compile any information necessary to address such provisions through such order.

(d) TREATMENT OF NON-SUNSCREEN TIME AND EXTENT APPLICATIONS.—

(1) IN GENERAL.—Any application described in section 586F of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff-6) that was submitted to the Secretary pursuant to section 330.14 of title 21, Code of Federal Regulations, as such provisions were in effect immediately prior to the date of enactment date of this Act, shall be extinguished as of such date of enactment, subject to paragraph (2).

(2) ORDER REQUEST.—Nothing in paragraph (1) precludes the submission of an order request under section 505G(b) of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act, with respect to a drug that was the subject of an application extinguished under paragraph (1).

**SEC. 105. ANNUAL UPDATE TO CONGRESS ON APPROPRIATE PEDIATRIC INDICATION FOR CERTAIN OTC COUGH AND COLD DRUGS.**

(a) IN GENERAL.—Subject to subsection (c), the Secretary of Health and Human Services shall, beginning not later than 1 year after the date of enactment of this Act, annually submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a letter describing the progress of the Food and Drug Administration—

(1) in evaluating the cough and cold monograph described in subsection (b) with respect to children under age 6; and

(2) as appropriate, revising such cough and cold monograph to address such children through the order process under section 505G(b) of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act.

(b) COUGH AND COLD MONOGRAPH DESCRIBED.—The cough and cold monograph described in this subsection consists of the conditions under which nonprescription drugs containing antitussive, expectorant, nasal decongestant, or antihistamine active ingredients (or combinations thereof) are generally recognized as safe and effective, as specified in part 341 of title 21, Code of Federal Regulations (as in effect immediately prior to the date of enactment of this Act), and included in an order deemed to be established under section 505G(b) of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act.

(c) DURATION OF AUTHORITY.—The requirement under subsection (a) shall terminate as of the date of a letter submitted by the Secretary of Health and Human Services pursuant to such subsection in which the Secretary indicates that the Food and Drug Administration has completed its evaluation and revised, in a final order, as applicable, the cough and cold monograph as described in subsection (a)(2).

**SEC. 106. TECHNICAL CORRECTIONS.**

(a) IMPORTS AND EXPORTS.—Section 801(e)(4)(E)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)(4)(E)(iii)) is amended by striking “subparagraph” each place such term appears and inserting “paragraph”.

(b) FDA REAUTHORIZATION ACT OF 2017.—

(1) IN GENERAL.—Section 905(b)(4) of the FDA Reauthorization Act of 2017 (Public Law 115–52) is amended by striking “Section 744H(e)(2)(B)” and inserting “Section 744H(f)(2)(B)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as of the enactment of the FDA Reauthorization Act of 2017 (Public Law 115–52).

**TITLE II—USER FEES****SEC. 201. SHORT TITLE; FINDING.**

(a) SHORT TITLE.—This title may be cited as the “Over-the-Counter Monograph User Fee Act of 2019”.

(b) FINDING.—The Congress finds that the fees authorized by the amendments made in this title will be dedicated to OTC monograph drug activities, as set forth in the goals identified for purposes of part 10 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record.

**SEC. 202. FEES RELATING TO OVER-THE-COUNTER DRUGS.**

Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by inserting after part 9 the following:

**“PART 10—FEES RELATING TO OVER-THE-COUNTER DRUGS****“SEC. 744L. DEFINITIONS.**

“In this part:

“(1) The term ‘affiliate’ means a business entity that has a relationship with a second business entity if, directly or indirectly—

“(A) one business entity controls, or has the power to control, the other business entity; or

“(B) a third party controls, or has power to control, both of the business entities.

“(2) The term ‘contract manufacturing organization facility’ means an OTC monograph drug facility where neither the owner of such manufacturing facility nor any affiliate of such owner or facility sells the OTC monograph drug produced at such facility directly to wholesalers, retailers, or consumers in the United States.

“(3) The term ‘costs of resources allocated for OTC monograph drug activities’ means the expenses in connection with OTC monograph drug activities for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees and costs related to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

“(D) collecting fees under section 744M and accounting for resources allocated for OTC monograph drug activities.

“(4) The term ‘FDA establishment identifier’ is the unique number automatically generated by Food and Drug Administra-

tion’s Field Accomplishments and Compliance Tracking System (FACTS) (or any successor system).

“(5) The term ‘OTC monograph drug’ means a nonprescription drug without an approved new drug application which is governed by the provisions of section 505G.

“(6) The term ‘OTC monograph drug activities’ means activities of the Secretary associated with OTC monograph drugs and inspection of facilities associated with such products, including the following activities:

“(A) The activities necessary for review and evaluation of OTC monographs and OTC monograph order requests, including—

“(i) orders proposing or finalizing applicable conditions of use for OTC monograph drugs;

“(ii) orders affecting status regarding general recognition of safety and effectiveness of an OTC monograph ingredient or combination of ingredients under specified conditions of use;

“(iii) all OTC monograph drug development and review activities, including intra-agency collaboration;

“(iv) regulation and policy development activities related to OTC monograph drugs;

“(v) development of product standards for products subject to review and evaluation;

“(vi) meetings referred to in section 505G(i);

“(vii) review of labeling prior to issuance of orders related to OTC monograph drugs or conditions of use; and

“(viii) regulatory science activities related to OTC monograph drugs.

“(B) Inspections related to OTC monograph drugs.

“(C) Monitoring of clinical and other research conducted in connection with OTC monograph drugs.

“(D) Safety activities with respect to OTC monograph drugs, including—

“(i) collecting, developing, and reviewing safety information on OTC monograph drugs, including adverse event reports;

“(ii) developing and using improved adverse event data-collection systems, including information technology systems; and

“(iii) developing and using improved analytical tools to assess potential safety risks, including access to external databases.

“(E) Other activities necessary for implementation of section 505G.

“(7) The term ‘OTC monograph order request’ means a request for an order submitted under section 505G(b)(5).

“(8) The term ‘Tier 1 OTC monograph order request’ means any OTC monograph order request not determined to be a Tier 2 OTC monograph order request.

“(9)(A) The term ‘Tier 2 OTC monograph order request’ means, subject to subparagraph (B), an OTC monograph order request for—

“(i) the reordering of existing information in the drug facts label of an OTC monograph drug;

“(ii) the addition of information to the other information section of the drug facts label of an OTC monograph drug, as limited by section 201.66(c)(7) of title 21, Code of Federal Regulations (or any successor regulations);

“(iii) modification to the directions for use section of the drug facts label of an OTC monograph drug, if such changes conform to changes made pursuant to section 505G(c)(3)(A);

“(iv) the standardization of the concentration or dose of a specific finalized ingredient within a particular finalized monograph;

“(v) a change to ingredient nomenclature to align with nomenclature of a standards-setting organization; or

“(vi) addition of an interchangeable term in accordance with section 330.1 of title 21,

Code of Federal Regulations (or any successor regulations).

“(B) The Secretary may, based on program implementation experience or other factors found appropriate by the Secretary, characterize any OTC monograph order request as a Tier 2 OTC monograph order request (including recharacterizing a request from Tier 1 to Tier 2) and publish such determination in a proposed order issued pursuant to section 505G.

“(10)(A) The term ‘OTC monograph drug facility’ means a foreign or domestic business or other entity that—

“(i) is—

“(I) under one management, either direct or indirect; and

“(II) at one geographic location or address engaged in manufacturing or processing the finished dosage form of an OTC monograph drug;

“(ii) includes a finished dosage form manufacturer facility in a contractual relationship with the sponsor of one or more OTC monograph drugs to manufacture or process such drugs; and

“(iii) does not include a business or other entity whose only manufacturing or processing activities are one or more of the following: production of clinical research supplies, testing, or placement of outer packaging on packages containing multiple products, for such purposes as creating multipacks, when each monograph drug product contained within the overpackaging is already in a final packaged form prior to placement in the outer overpackaging.

“(B) For purposes of subparagraph (A)(i)(II), separate buildings or locations within close proximity are considered to be at one geographic location or address if the activities conducted in such buildings or locations are—

“(i) closely related to the same business enterprise;

“(ii) under the supervision of the same local management; and

“(iii) under a single FDA establishment identifier and capable of being inspected by the Food and Drug Administration during a single inspection.

“(C) If a business or other entity would meet criteria specified in subparagraph (A), but for being under multiple management, the business or other entity is deemed to constitute multiple facilities, one per management entity, for purposes of this paragraph.

“(11) The term ‘OTC monograph drug meeting’ means any meeting regarding the content of a proposed OTC monograph order request.

“(12) The term ‘person’ includes an affiliate of a person.

“(13) The terms ‘requestor’ and ‘sponsor’ have the meanings given such terms in section 505G.

**“SEC. 744M. AUTHORITY TO ASSESS AND USE OTC MONOGRAPH FEES.**

“(a) TYPES OF FEES.—Beginning with fiscal year 2021, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) FACILITY FEE.—

“(A) IN GENERAL.—Each person that owns a facility identified as an OTC monograph drug facility on December 31 of the fiscal year or at any time during the preceding 12-month period shall be assessed an annual fee for each such facility as determined under subsection (c).

“(B) EXCEPTIONS.—

“(i) FACILITIES THAT CEASE ACTIVITIES.—A fee shall not be assessed under subparagraph (A) if the identified OTC monograph drug facility—

“(I) has ceased all activities related to OTC monograph drugs prior to December 31

of the year immediately preceding the applicable fiscal year; and

“(II) has updated its registration to reflect such change under the requirements for drug establishment registration set forth in section 510.

“(i) CONTRACT MANUFACTURING ORGANIZATIONS.—The amount of the fee for a contract manufacturing organization facility shall be equal to two-thirds of the amount of the fee for an OTC monograph drug facility that is not a contract manufacturing organization facility.

“(C) AMOUNT.—The amount of fees established under subparagraph (A) shall be established under subsection (c).

“(D) DUE DATE.—

“(i) FOR FIRST PROGRAM YEAR.—For fiscal year 2021, the facility fees required under subparagraph (A) shall be due on the later of—

“(I) the first business day of June of 2020; or

“(II) 45 calendar days after publication of the Federal Register notice provided for under subsection (c)(4)(A).

“(ii) SUBSEQUENT FISCAL YEARS.—For each fiscal year after fiscal year 2021, the facility fees required under subparagraph (A) shall be due on the later of—

“(I) the first business day of June of such year; or

“(II) the first business day after the enactment of an appropriations Act providing for the collection and obligation of fees under this section for such year.

“(2) OTC MONOGRAPH ORDER REQUEST FEE.—

“(A) IN GENERAL.—Each person that submits an OTC monograph order request shall be subject to a fee for an OTC monograph order request. The amount of such fee shall be—

“(i) for a Tier 1 OTC monograph order request, \$500,000, adjusted for inflation for the fiscal year (as determined under subsection (c)(1)(B)); and

“(ii) for a Tier 2 OTC monograph order request, \$100,000, adjusted for inflation for the fiscal year (as determined under subsection (c)(1)(B)).

“(B) DUE DATE.—The OTC monograph order request fees required under subparagraph (A) shall be due on the date of submission of the OTC monograph order request.

“(C) EXCEPTION FOR CERTAIN SAFETY CHANGES.—A person who is named as the requestor in an OTC monograph order shall not be subject to a fee under subparagraph (A) if the Secretary finds that the OTC monograph order request seeks to change the drug facts labeling of an OTC monograph drug in a way that would add to or strengthen—

“(i) a contraindication, warning, or precaution;

“(ii) a statement about risk associated with misuse or abuse; or

“(iii) an instruction about dosage and administration that is intended to increase the safe use of the OTC monograph drug.

“(D) REFUND OF FEE IF ORDER REQUEST IS RECATEGORIZED AS A TIER 2 OTC MONOGRAPH ORDER REQUEST.—If the Secretary determines that an OTC monograph request initially characterized as Tier 1 shall be re-characterized as a Tier 2 OTC monograph order request, and the requestor has paid a Tier 1 fee in accordance with subparagraph (A)(i), the Secretary shall refund the requestor the difference between the Tier 1 and Tier 2 fees determined under subparagraphs (A)(i) and (A)(ii), respectively.

“(E) REFUND OF FEE IF ORDER REQUEST REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any order request which is refused for filing or was withdrawn before being accepted or refused for filing.

“(F) FEES FOR ORDER REQUESTS PREVIOUSLY REFUSED FOR FILING OR WITHDRAWN BEFORE FILING.—An OTC monograph order request that was submitted but was refused for filing, or was withdrawn before being accepted or refused for filing, shall be subject to the full fee under subparagraph (A) upon being resubmitted or filed over protest.

“(G) REFUND OF FEE IF ORDER REQUEST WITHDRAWN.—If an order request is withdrawn after the order request was filed, the Secretary may refund the fee or a portion of the fee if no substantial work was performed on the order request after the application was filed. The Secretary shall have the sole discretion to refund a fee or a portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this subparagraph shall not be reviewable.

“(3) REFUNDS.—

“(A) IN GENERAL.—Other than refunds provided pursuant to any of subparagraphs (D) through (G) of paragraph (2), the Secretary shall not refund any fee paid under paragraph (1) except as provided in subparagraph (B).

“(B) DISPUTES CONCERNING FEES.—To qualify for the return of a fee claimed to have been paid in error under paragraph (1) or (2), a person shall submit to the Secretary a written request justifying such return within 180 calendar days after such fee was paid.

“(4) NOTICE.—Within the timeframe specified in subsection (c), the Secretary shall publish in the Federal Register the amount of the fees under paragraph (1) for such fiscal year.

“(b) FEE REVENUE AMOUNTS.—

“(1) FISCAL YEAR 2021.—For fiscal year 2021, fees under subsection (a)(1) shall be established to generate a total facility fee revenue amount equal to the sum of—

“(A) the annual base revenue for fiscal year 2021 (as determined under paragraph (3));

“(B) the dollar amount equal to the operating reserve adjustment for the fiscal year, if applicable (as determined under subsection (c)(2)); and

“(C) additional direct cost adjustments (as determined under subsection (c)(3)).

“(2) SUBSEQUENT FISCAL YEARS.—For each of the fiscal years 2022 through 2025, fees under subsection (a)(1) shall be established to generate a total facility fee revenue amount equal to the sum of—

“(A) the annual base revenue for the fiscal year (as determined under paragraph (3));

“(B) the dollar amount equal to the inflation adjustment for the fiscal year (as determined under subsection (c)(1));

“(C) the dollar amount equal to the operating reserve adjustment for the fiscal year, if applicable (as determined under subsection (c)(2));

“(D) additional direct cost adjustments (as determined under subsection (c)(3)); and

“(E) additional dollar amounts for each fiscal year as follows:

“(i) \$7,000,000 for fiscal year 2022.

“(ii) \$6,000,000 for fiscal year 2023.

“(iii) \$7,000,000 for fiscal year 2024.

“(iv) \$3,000,000 for fiscal year 2025.

“(3) ANNUAL BASE REVENUE.—For purposes of paragraphs (1)(A) and (2)(A), the dollar amount of the annual base revenue for a fiscal year shall be—

“(A) for fiscal year 2021, \$8,000,000; and

“(B) for fiscal years 2022 through 2025, the dollar amount of the total revenue amount established under this subsection for the previous fiscal year, not including any adjustments made under subsection (c)(2) or (c)(3).

“(C) ADJUSTMENTS; ANNUAL FEE SETTING.—

“(1) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—For purposes of subsection (b)(2)(B), the dollar amount of the in-

flation adjustment to the annual base revenue for fiscal year 2022 and each subsequent fiscal year shall be equal to the product of—

“(i) such annual base revenue for the fiscal year under subsection (b)(2); and

“(ii) the inflation adjustment percentage under subparagraph (C).

“(B) OTC MONOGRAPH ORDER REQUEST FEES.—For purposes of subsection (a)(2), the dollar amount of the inflation adjustment to the fee for OTC monograph order requests for fiscal year 2022 and each subsequent fiscal year shall be equal to the product of—

“(i) the applicable fee under subsection (a)(2) for the preceding fiscal year; and

“(ii) the inflation adjustment percentage under subparagraph (C).

“(C) INFLATION ADJUSTMENT PERCENTAGE.—The inflation adjustment percentage under this subparagraph for a fiscal year is equal to—

“(i) for each of fiscal years 2022 and 2023, the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; Not Seasonally Adjusted; All Items; Annual Index) for the first 3 years of the preceding 4 years of available data; and

“(ii) for each of fiscal years 2024 and 2025, the sum of—

“(I) the average annual percent change in the cost, per full-time equivalent position of the Food and Drug Administration, of all personnel compensation and benefits paid with respect to such positions for the first 3 years of the preceding 4 fiscal years, multiplied by the proportion of personnel compensation and benefits costs to total costs of OTC monograph drug activities for the first 3 years of the preceding 4 fiscal years; and

“(II) the average annual percent change that occurred in the Consumer Price Index for urban consumers (Washington-Baltimore, DC-MD-VA-WV; Not Seasonally Adjusted; All Items; Annual Index) for the first 3 years of the preceding 4 years of available data multiplied by the proportion of all costs other than personnel compensation and benefits costs to total costs of OTC monograph drug activities for the first 3 years of the preceding 4 fiscal years.

“(2) OPERATING RESERVE ADJUSTMENT.—

“(A) IN GENERAL.—For fiscal year 2021 and subsequent fiscal years, for purposes of subsections (b)(1)(B) and (b)(2)(C), the Secretary may, in addition to adjustments under paragraph (1), further increase the fee revenue and fees if such an adjustment is necessary to provide operating reserves of carryover user fees for OTC monograph drug activities for not more than the number of weeks specified in subparagraph (B).

“(B) NUMBER OF WEEKS.—The number of weeks specified in this subparagraph is—

“(i) 3 weeks for fiscal year 2021;

“(ii) 7 weeks for fiscal year 2022;

“(iii) 10 weeks for fiscal year 2023;

“(iv) 10 weeks for fiscal year 2024; and

“(v) 10 weeks for fiscal year 2025.

“(C) DECREASE.—If the Secretary has carryover balances for such process in excess of 10 weeks of the operating reserves referred to in subparagraph (A), the Secretary shall decrease the fee revenue and fees referred to in such subparagraph to provide for not more than 10 weeks of such operating reserves.

“(D) RATIONALE FOR ADJUSTMENT.—If an adjustment under this paragraph is made, the rationale for the amount of the increase or decrease (as applicable) in fee revenue and fees shall be contained in the annual Federal Register notice under paragraph (4) establishing fee revenue and fees for the fiscal year involved.

“(3) ADDITIONAL DIRECT COST ADJUSTMENT.—The Secretary shall, in addition to adjustments under paragraphs (1) and (2),

further increase the fee revenue and fees for purposes of subsection (b)(2)(D) by an amount equal to—

- “(A) \$14,000,000 for fiscal year 2021;
- “(B) \$7,000,000 for fiscal year 2022;
- “(C) \$4,000,000 for fiscal year 2023;
- “(D) \$3,000,000 for fiscal year 2024; and
- “(E) \$3,000,000 for fiscal year 2025.

“(4) ANNUAL FEE SETTING.—

“(A) FISCAL YEAR 2021.—The Secretary shall, not later than the second Monday in March of 2020—

“(i) establish OTC monograph drug facility fees for fiscal year 2021 under subsection (a), based on the revenue amount for such year under subsection (b) and the adjustments provided under this subsection; and

“(ii) publish fee revenue, facility fees, and OTC monograph order requests in the Federal Register.

“(B) SUBSEQUENT FISCAL YEARS.—The Secretary shall, for each fiscal year that begins after September 30, 2021, not later than the second Monday in March that precedes such fiscal year—

“(i) establish for such fiscal year, based on the revenue amounts under subsection (b) and the adjustments provided under this subsection—

“(I) OTC monograph drug facility fees under subsection (a)(1); and

“(II) OTC monograph order request fees under subsection (a)(2); and

“(ii) publish such fee revenue amounts, facility fees, and OTC monograph order request fees in the Federal Register.

“(d) IDENTIFICATION OF FACILITIES.—Each person that owns an OTC monograph drug facility shall submit to the Secretary the information required under this subsection each year. Such information shall, for each fiscal year—

“(1) be submitted as part of the requirements for drug establishment registration set forth in section 510; and

“(2) include for each such facility, at a minimum, identification of the facility's business operation as that of an OTC monograph drug facility.

“(e) EFFECT OF FAILURE TO PAY FEES.—

“(1) OTC MONOGRAPH DRUG FACILITY FEE.—

“(A) IN GENERAL.—Failure to pay the fee under subsection (a)(1) within 20 calendar days of the due date as specified in subparagraph (D) of such subsection shall result in the following:

“(i) The Secretary shall place the facility on a publicly available arrears list.

“(ii) All OTC monograph drugs manufactured in such a facility or containing an ingredient manufactured in such a facility shall be deemed misbranded under section 502(ff).

“(B) APPLICATION OF PENALTIES.—The penalties under this paragraph shall apply until the fee established by subsection (a)(1) is paid.

“(2) ORDER REQUESTS.—An OTC monograph order request submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person under this section have been paid.

“(3) MEETINGS.—A person subject to fees under this section shall be considered ineligible for OTC monograph drug meetings until all such fees owed by such person have been paid.

“(f) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from

the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for OTC monograph drug activities.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—Subject to subparagraph (C), the fees authorized by this section shall be collected and available in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year.

“(B) USE OF FEES AND LIMITATION.—The fees authorized by this section shall be available to defray increases in the costs of the resources allocated for OTC monograph drug activities (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such activities), only if the Secretary allocates for such purpose an amount for such fiscal year (excluding amounts from fees collected under this section) no less than \$12,000,000, multiplied by the adjustment factor applicable to the fiscal year involved under subsection (c)(1).

“(C) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (B) in any fiscal year if the costs funded by appropriations and allocated for OTC monograph drug activities are not more than 15 percent below the level specified in such subparagraph.

“(D) PROVISION FOR EARLY PAYMENTS IN SUBSEQUENT YEARS.—Payment of fees authorized under this section for a fiscal year (after fiscal year 2021), prior to the due date for such fees, may be accepted by the Secretary in accordance with authority provided in advance in a prior year appropriations Act.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2021 through 2025, there is authorized to be appropriated for fees under this section an amount equal to the total amount of fees assessed for such fiscal year under this section.

“(g) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 calendar days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(h) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in OTC monograph drug activities, be reduced to offset the number of officers, employees, and advisory committees so engaged.

“SEC. 744N. REAUTHORIZATION; REPORTING REQUIREMENTS.

“(a) PERFORMANCE REPORT.—Beginning with fiscal year 2021, and not later than 120 calendar days after the end of each fiscal year thereafter for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(b) of the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019 during such fiscal year and the future plans of the Food and Drug Administration for meeting such goals.

“(b) FISCAL REPORT.—Not later than 120 calendar days after the end of fiscal year 2021

and each subsequent fiscal year for which fees are collected under this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.

“(c) PUBLIC AVAILABILITY.—The Secretary shall make the reports required under subsections (a) and (b) available to the public on the internet website of the Food and Drug Administration.

“(d) REAUTHORIZATION.—

“(1) CONSULTATION.—In developing recommendations to present to the Congress with respect to the goals described in subsection (a), and plans for meeting the goals, for OTC monograph drug activities for the first 5 fiscal years after fiscal year 2025, and for the reauthorization of this part for such fiscal years, the Secretary shall consult with—

“(A) the Committee on Energy and Commerce of the House of Representatives;

“(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(C) scientific and academic experts;

“(D) health care professionals;

“(E) representatives of patient and consumer advocacy groups; and

“(F) the regulated industry.

“(2) PUBLIC REVIEW OF RECOMMENDATIONS.—After negotiations with the regulated industry, the Secretary shall—

“(A) present the recommendations developed under paragraph (1) to the congressional committees specified in such paragraph;

“(B) publish such recommendations in the Federal Register;

“(C) provide for a period of 30 calendar days for the public to provide written comments on such recommendations;

“(D) hold a meeting at which the public may present its views on such recommendations; and

“(E) after consideration of such public views and comments, revise such recommendations as necessary.

“(3) TRANSMITTAL OF RECOMMENDATIONS.—Not later than January 15, 2025, the Secretary shall transmit to the Congress the revised recommendations under paragraph (2), a summary of the views and comments received under such paragraph, and any changes made to the recommendations in response to such views and comments.”

EXECUTIVE SESSION—Continued

The PRESIDING OFFICER. The Senate will resume executive session.

The Senator from Maryland.

UNANIMOUS CONSENT REQUEST—S. 1060

Mr. VAN HOLLEN. Madam President, after a discussion that we will have on the Senate floor, I intend to ask unanimous consent that the Senate pass S. 1060, which is a bipartisan piece of legislation called the DETER Act.

What is the DETER Act? The DETER Act is legislation that I introduced with Senator RUBIO. It has bipartisan sponsorship, and it is designed to send a very clear and simple message to Russia or any other countries that are thinking about interfering with our elections and undermining our democracy that, if we catch you, you will suffer a severe penalty. It won't be a few

sanctions against a few of the oligarchs. It will hit big parts of your economy. It will hit your banking sector. It will hit your energy sector. It will hurt, so you better think before you try to interfere in any future election.

Now, Senator RUBIO and I introduced this legislation a number of years ago, and in response to concerns that were raised, we made a number of important changes, but despite those changes, we are still here in the U.S. Senate with less than 1 year to go before a national election, and we have not passed this bill to deter foreign interference in our elections.

We know what Vladimir Putin's ambitions are. He wants to sow division in our electorate. He wants to make our political process even more polarized. He wants to undermine the public faith in the democratic process. That is not just my conclusion. That is the unanimous verdict of the U.S. Intelligence Committee and the community after the 2016 election, but it is not just them.

Our own Senate Intelligence Committee, on a bipartisan basis, issued its findings. It also found that those were Putin's intentions, and it found that, in 2016, Russia interfered in all 50 of the States, to a greater or lesser extent—all 50 of the States. And what Vladimir Putin clearly has learned and taken away from all of this is that he can attack our democracy and attack our elections with impunity because the rewards are high. He creates division. He accomplishes his objectives. And the price is zero. There is currently no cost to Vladimir Putin from interfering in our elections.

So what the DETER Act is designed to do is to raise the costs for the coming elections, to make it clear that, if we catch you next time, there will be a penalty to pay. We know that Putin hasn't gotten this message because there is no penalty right now, and that is why, on November 5, just a few weeks ago, we got another unanimous prediction from U.S. intelligence agencies. All of them jointly stated:

Russia, China, Iran, and other foreign malicious actors all will seek to interfere in the voting process or influence voter perceptions. Adversaries may try to accomplish their goals through a variety of means, including social media campaigns, directing disinformation operations or conducting disruptive or destructive cyber-attacks on state and local infrastructure.

That was just a few weeks ago—unanimously, from the intelligence agencies. Clearly, Vladimir Putin hasn't gotten the message. What the DETER Act is all about is sending that message that he will now know that there will be a penalty to pay upfront.

Look, there are only two ways we can protect our elections, and we need to do both. One is to harden our election infrastructure here at home, which is to try to make it harder for somebody to use cyber attacks to get into our election systems and make it harder for them to abuse our social media

platforms. This is a case where the best defense is a good offense because we can harden our systems, but you can be sure that the Russian Government cyber security folks will always be looking for a way around it, just like the arms race. So just like the arms race, deterrence is the best way to protect the integrity of our democracy by letting them know upfront that there will be this very tough price to pay.

We hoped and thought we could address this issue in the National Defense Authorization Act. What better place is there to defend the integrity of our democracy than in the legislation that is designed to protect our national security? In fact, the U.S. Senate unanimously passed the resolution I have in my hand, S. Res. 330, which says very clearly that we wanted folks at the NDAA conference to require the administration—any administration, future administration—to promptly submit a report on Russian interference or other interference following every Federal election, and that would include a detailed assessment of the foreign governments that were involved in that interference. The Senate, as part of that resolution, also voted to promptly impose sanctions on any foreign government determined to have interfered in a future Federal election, including individuals and entities within that country's territories.

Let me emphasize that point. Every Senator here supported that—or at least nobody objected to that. We have been working for over 2 years to get this done, and we keep hearing that the Trump administration doesn't want to do it. Of course, we haven't been told by the Trump administration why they object. Even Secretary Pompeo, in testimony before the Senate Foreign Relations Committee, said he supported the concept. In fact, every witness in the Senate Banking Committee and Senate Foreign Relations Committee asked about this and supported this legislation. You have to ask the question why: Why is there such opposition? If it is because of President Trump, we need to be doing our job here in the legislature, not the bidding of the White House.

I yield to the Democratic leader.

Mr. SCHUMER. Madam President, I thank my colleague from Maryland for his diligence in this issue of utmost importance to the integrity of our elections, to our national security, and basically for trust in government. If the American people feel that a foreign country can interfere in their elections and, particularly, that their President is OK with that, I worry and pray for our democracy.

For the past few years, Senate Democrats have sought to pass legislation to improve the security of elections. There are many ways to do this—hardening our election infrastructure, shoring up cyber defenses, and requiring paper ballots. One of the most important has been advocated with passion and vigor by my colleague from Mary-

land, and that is deterring foreign adversaries from trying to interfere with elections in the first place.

For the past year, Democrats have been pushing legislation that would do just that by instituting mandatory crosscutting sanctions against any adversary—Russia, China, Iran, North Korea—that even dared to attempt to meddle in our democracy. It is a bipartisan idea. Senator VAN HOLLEN has legislation that is cosponsored by Senator RUBIO. We tried hard to pass this measure in the annual defense bill. Senate Republicans and Leader MCCONNELL blocked the provision from the final agreement.

Here we are today, asking our Republican colleagues to relent and allow this bipartisan legislation to pass the Senate on its own. Our top national security officials have warned us that our adversaries are right now—right now, as we speak—working on ever more sophisticated methods to meddle in our elections. That is what Putin does. He doesn't have the military power or the economic power, but he has long tentacles and clever ways to undermine our democracy. Are we going to stand there benignly and let it happen? That is outrageous.

Why have Leader MCCONNELL and Senate Republicans opposed it? I hope it is not because the Russian Foreign Minister is in town this week. I hope it is not because anyone wants to invite foreign interference.

I am worried that it is just as my colleague from Maryland said: Donald Trump, who has shown no regard for the rule of law, for fairness, for decency, or for honor, if he thinks Russian interference will help him, he says: Let's do it. What is bothersome is that my colleagues on the Republican side of the aisle move forward on his wishes, right to the undermining of our democracy.

I guarantee that if Leader MCCONNELL would allow the vote on this legislation, it would pass almost unanimously. Remember, the motion to instruct conferees on NDAA to include this legislation passed nearly unanimously. I would plead with my good friend—he is a good man from Idaho, Senator CRAPO—and I would plead with Leader MCCONNELL: Stop this now. If Trump is getting you to do this or if the White House is, which I suspect is true, that is not your duty to this country, and you must put that higher than your duty to President Trump.

I yield back to my friend.

Mr. VAN HOLLEN. Madam President, I thank the minority leader. As he indicated, the Russian Foreign Minister, Foreign Minister Lavrov, is in town. There is a report saying that Secretary Pompeo said to the Russians: Don't interfere in our elections.

Wagging your finger is not enough to scare off Vladimir Putin. That is why you need the DETER Act.

Of course, saying that is a big advance over the President of the United States, who has been denying Russian

interference in our elections. It is not enough to scold the Russians. It is not enough to scold Foreign Ministers. It is not enough to scold Vladimir Putin. You have to raise the price for interference, and they need to do it upfront.

Madam President, as in legislative session, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 1060 and the Senate proceed to its immediate consideration. I further ask that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Madam President, I think the record really needs to be set straight. The picture that is being painted here is that the Republicans or President Trump or both don't care about the fact that Russia is and has been trying to interfere in our elections and that, for some reason, our refusal to allow this specific act to move forward until it is fixed is evidence of that.

In support of that, he said that there is no penalty on the Russians because of their actions. I will remind my colleagues that I am the chairman of the committee that has jurisdiction over economic sanctions. On this floor, last Congress, we had this very debate. I was making the case then that we needed a broad, strong sanctions law against Russia for its election interference and not only for its election interference but also for its invasion of Crimea and for its cyber security attacks on the United States.

What happened then? We passed what I believe is probably the strongest, most extensive legislation putting into effect sanctions on Russia for election interference, for cyber security violations, for invasion of Crimea, and other malign conduct. Under that legislation, the administration has been active.

I want to read you just a little—I think that President Trump has probably put more sanctions on the Russians than any other President in our history. The Treasury's Russia sanctions program is among the most active of the sanctions programs that the United States has. This administration has sanctioned 335 Russian-related individuals and entities, 317 of which were sanctioned under Treasury authority.

By the way, the bill I referred to has an acronym. It is the Countering America's Adversaries Through Sanctions Act, or CAATSA. That is the legislation that the administration is using to deter Russian election interference and other activities in addition to other malign conduct.

Now, I want to state again, as my colleague knows, I agree and have

agreed that we can work on further legislation, but we need to get it right because economic sanctions legislation is a two-edged sword. It hurts the United States and our allies often as much as it hurts the entities sanctioned, and because of that, we have to have the ability to be flexible in when to apply, how to apply, and how to adjust the impact of our sanctions; otherwise, we will see that we will do more damage to ourselves and our allies than to Russia.

By the way, we don't just need legislation dealing with Russia. We need legislation dealing with the same types of activities from Iran and China and North Korea, to name just a few of the others. We need to do it with the appropriate mechanisms.

The mechanisms in this bill have been designed more to attack the Trump administration and Republicans than to attack the Russians and those who would attack our country and our elections. I have said again and again and again that if we can fix the mechanisms so that they will work effectively to work against our enemies and protect America and our allies, as our current sanctions regimes do, then we can move forward with legislation that will even enhance what we did in CAATSA.

I will also remind my colleague that in addition to CAATSA, one of the reasons we have been so active in the United States is that we have passed significant additional legislation. I remind my colleagues and everyone that in addition to CAATSA and the already existing IEEPA legislation, which are very broad and powerful international emergency economic authorities that have previously existed in the United States to help our administrations push back against malign conduct from our enemies, we have also passed the Ukraine Freedom Support Act. I referenced Crimea earlier. We have passed the Magnitsky Act. President Obama, President Trump, and I believe President Bush, before them, have issued significant Executive orders on their own with their Executive order authority to expand sanctioning authority.

To create the picture that there is no deterrent is false. To create the picture that the Trump administration is trying to turn a blind eye to Russia's malign conduct is false. To create the picture that the Republicans, because they want to get a mechanism that works properly, are therefore willing to turn a blind eye to Russia is false.

When we can finally stop trying to play politics with this issue, when we can stop trying to make it anti-Trump or anti-Republican or make politics out of the problems that Russia truly is creating for us, maybe we can come together and pass yet another strong piece of legislation to move forward—but not as long as it is done with mechanisms and with lack of flexibility that actually undermine our own economic security and our system in applying the sanctions. Because of that, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maryland.

Mr. VAN HOLLEN. Madam President, I want to address some of the comments made by the chairman of the Banking Committee and start by saying that I have appreciated the conversations he and I have had on this legislation over the years. Let me just address some of the comments that were made.

One is to say that, currently, the CAATSA scheme is enough to deter future Russian interference in our elections. If that were true, you would not have had every single one of our intelligence agencies just a few weeks ago predict that Russia will interfere in our elections again, along with other foreign malign actors.

If the laws on the books could deter that interference, why did they predict just a few weeks ago that they are coming for us in the upcoming elections?

Second, this is not a partisan attack on President Trump. This is a bipartisan bill. This bill not only has Senator RUBIO as the chief author, co-author of the legislation, there are a number of other Republican and Democratic Senators on this bill as cosponsors. In fact, they are evenly matched on this legislation.

This has nothing to do with President Trump. In fact, this determination and this law would not even kick in until after the 2020 elections. I don't know who is going to be President then. This has nothing to do with President Trump. This has to do with protecting our elections. Is it informed by what happened in 2016? You bet it is. We know—again, from all our intelligence committees and community agencies, every one of them headed by somebody nominated by President Trump—that the Russians attacked us in 2016. A few weeks ago they said the same thing will happen in 2020, and that will happen especially if we don't raise the price.

The CAATSA legislation, as the Senator knows, was put in place by an overwhelming veto-proof vote in the U.S. Senate. It was required because the Russians interfered, but it was retrospective. So, yes, we punished some of the oligarchs who were close to Vladimir Putin, but that is not enough, clearly, to raise the price to Vladimir Putin from deterring him from doing it again.

Again, we just heard that from our own intelligence agencies. If you want to raise the price for future interference, you need to not just hit a few oligarchs, you need to let them know, some of those Russian Government banks are going to get hit; their energy sector is going to get hit.

By the way, there is actually more flexibility in this bill than I would like. As the chairman of the committee knows, the original bill Senator RUBIO and I introduced did not have waiver authority for the President of the

United States. The version that is before us right now contains waiver authority for every single one of the sanctions if the President makes a national determination and says the waiver will not hurt our national security.

It has more flexibility than I would like because my view is you need to set up a machine that is almost automatic. If we catch you interfering, there will be a price to pay. Under this bill, if we catch them, yes, there will be sanctions, but the reality is, the President can decide to waive those sanctions.

We have come a long way. This is a bipartisan bill. This is about protecting our democracy. It is not about any particular individual or any particular President. It wouldn't even kick in until after the next elections, and those sanctions will only kick in if there is interference. The whole purpose of this bill is to have sanctions that are tough enough so Putin doesn't interfere or another foreign government doesn't interfere and so they don't go off the sanctions. That is the whole purpose.

I hope we will vote on this. The clock is ticking. I am going to be on this floor week after week until we come together and pass something that actually has some teeth and will deter that very foreign interference that every intelligence agency predicted will happen as recently as 5 weeks ago. That will happen unless we act.

I yield floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Madam President, not to belabor the point, but I just want to respond briefly. Yes, there are Republicans and Democrats on this bill, but many of the Members who are on this bill have told me they are ready and willing to amend and make it work.

I have offered and have tried now for months to get that done. I am willing to continue trying to improve and strengthen this bill, but the notion that this is just somehow trying to protect the President from having to make tough choices is simply false.

I will read today—as has been indicated, we have leaders from Russia in America today, and in response to that, our Secretary of State Pompeo said:

The Trump administration will always work to protect the integrity of our elections, period. . . . Should Russia or any foreign actor take steps to undermine our Democratic processes, we will take action in response.

All of the authorities in this legislation we are debating right now exists already under CAATSA. I guess the argument is that President Trump will not use them. Well, the reality is he will. Secondly, I have indicated my willingness to work on this legislation.

Rather than continuing to stand on the floor and debate why we like or don't like what President Trump is doing, I think we ought to get down to the serious business of legislating.

I yield the floor.

Mr. VAN HOLLEN. Madam President, I hope we will get down to the serious business of legislating. As I indicated in the hearings that have been held in the Senate Banking Committee and Senate Foreign Relations Committee, there was overwhelming support for moving forward with the DETER Act; that is, deter Russian interference in our elections.

I will say it again. This authority, this sanction, if there is interference, does not kick in until after the next Presidential election. It is not designed to focus on any particular President. It is designed together on a bipartisan basis—and this is a bipartisan bill—to set up a mechanism in advance to let Vladimir Putin or other malign foreign actors know, if they interfere, there will be a price to pay. Not maybe, not let's just guess about it, there will be a price to pay unless a President decides to waive it, which, as I said, was a concession we made to address people's concerns about some flexibility, but we need to send the upfront message that at least initially these sanctions will take effect, and they will hurt. That is the only way to deter someone like Vladimir Putin and the Russians from interfering in our elections: raise the price and make it clear they will pay it.

The PRESIDING OFFICER. The Senator from Nevada.

NOMINATION OF LAWRENCE VANDYKE

Ms. CORTEZ MASTO. Madam President, I rise today because of my firm opposition to Lawrence VanDyke's nomination to the Ninth Circuit Court of Appeals, which has jurisdiction over my home State of Nevada. Mr. VanDyke lacks the support of both his home State Senators, JACKY ROSEN and I. His qualifications are inadequate and his ties to Nevada are minimal.

His nomination sets a dangerous precedent for the Senate and would allow future administrations to nominate virtual outsiders to communities across the country over Senators' objections.

The President could have chosen a better nominee. Senator ROSEN and I tried to work with the administration to identify well-respected attorneys from Nevada as potential appeals court judges. Instead, the President decided to nominate someone with no current ties to our State, someone whom the American Bar Association has rated as "not qualified" for the Federal bench, someone who holds extreme beliefs about reproductive rights, LGBTQ rights, gun violence prevention, and environmental protection.

The American Bar Association interviewed 60 of Mr. VanDyke's former colleagues, and those colleagues characterized him as arrogant, lazy, an ideologue, and lacking in knowledge of the day-to-day practice, including procedural rules.

Mr. VanDyke's nomination is unprecedent for all of these reasons. If confirmed to the Ninth Circuit, Lawrence

VanDyke would be the first judicial nominee appointed to the bench without the support of his home State Senators, with a "not qualified" rating from the American Bar Association, and without ties to the community whose appeals court seat he would occupy.

I would like to ask my colleagues: What kind of message are we sending when we confirm individuals who don't have the support of their local communities?

We need judges with the knowledge, the maturity, and experience to understand the impact their decisions will have on the States over which they preside. How will my colleagues feel when a future administration attempts to do the same thing to their State, when a Democratic President, perhaps, nominates a Californian to sit on a district court in Kentucky or a lifelong DC resident is sent to a court in Texas?

Mr. VanDyke's qualifications and connections to Nevada are just one part of my objection to his confirmation. I also believe Mr. VanDyke's views are just too extreme to promote to the Federal bench. He signed the State of Montana on to a brief in an Arizona case that argued that *Roe v. Wade* "should . . . be revisited."

On LGBTQ protections, Mr. VanDyke at his confirmation hearings broke down in tears of frustration at the very idea that he might be unfair to LGBTQ litigants. He insisted that he believes in treating "all people . . . with dignity and respect," but he didn't treat LGBTQ people with dignity and respect when he wrote in a 2004 article that same-sex marriage hurts families, children, and society. It certainly doesn't reflect an attitude of dignity and respect to support extreme groups like the Family Research Council and the Alliance Defending Freedom, both of which have been designated as anti-LGBTQ hate groups by the Southern Poverty Law Center.

The people who can legitimately shed tears about Lawrence VanDyke's record on LGBTQ rights are those who are still shunned because of whom they love.

On the issue of preventing gun violence, Mr. VanDyke made his stance clear in a questionnaire the NRA sent to him when he was running for the Supreme Court of Montana. In his answers to the NRA's questions, Mr. VanDyke said he believed that "all gun control laws are misdirected." In Nevada, we believe in Second Amendment rights, but we also agree—as almost all Americans do—that commonsense measures like background checks keep us safer.

Finally, Mr. VanDyke has done his best to erode environmental standards and protections. As solicitor general of Nevada, he signed on to a lawsuit that threatened the critical sage grouse protections. Governor Sandoval, the Republican Governor at the time, said that lawsuit "did not represent the State of Nevada, the governor, or any state agencies."

The Western United States has some of the most fragile and iconic public lands in the Nation. I object to letting Mr. VanDyke oversee them when he seems to care so little for their values. Mr. VanDyke's record shows that he is not a neutral arbiter of the law. Because of his poor qualifications and because of his extreme activist approach to the law, I will vote against his confirmation, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

USMCA

Ms. ERNST. Madam President, there are just 21 days left in 2019. With the days dwindling, Congress has made little progress on its to-do list that without question must be addressed before going home for the holidays. This is largely due to the distractions and delays caused by the Democrats in this body and especially by those across the Capitol.

Let's take the United States-Mexico-Canada trade agreement. President Trump signed it over 1 year ago. If approved, USMCA would create 176,000 new jobs by expanding access to markets and providing much needed certainty for American businesses and farmers. Literally, everyone benefits. Yet here we are still waiting for the House Democrats to bring it up for a vote—a vote that would be broadly bipartisan.

Speaker PELOSI even admitted today that there is no question that USMCA is much better than NAFTA. I am hopeful the House will finally vote on the measure next week before leaving town. This would be a great Christmas gift for American workers, farmers, and businesses.

But it is not just on trade deals. We are now over 2 months into the new Federal fiscal year. Yet Congress still has not approved the annual funding bills for this fiscal year. These bills will actually fund the government. Yet Democrats are stalling and throwing up roadblocks at every turn. They are failing to support our servicemembers, including providing them with the largest pay raise in a decade.

Just recently, I was on the ground in Kuwait and Afghanistan to meet with our U.S. troops, including Iowans of the Des Moines-based 103rd Sustainment Command. These servicemembers are relying on Congress to do their job so that our military men and women can carry out their job of protecting our homeland. As a former company commander in Kuwait, I realize just how vital resources are to our troops.

Let's not forget that Democrats agreed to a framework months ago on all of these bills. Yet they have repeatedly blocked consideration of these bills.

Similarly, the authorization for the Violence Against Women Act—a law that is deeply personal to me—expired a year ago and remains in limbo. For

months, the ranking member of the Judiciary Committee and I worked to develop a bipartisan bill to renew the law, which provides desperately needed resources to prevent domestic and sexual abuse and care for our survivors. We were making real progress, but all of a sudden, Senate Democrats walked away from the progress we made in an apparent attempt to make violence against women an election issue.

Folks, we cannot allow our political differences to keep us from performing our most basic constitutional duties: to provide for the common defense, fund the operations of the Federal Government, and support women and children across this country facing sexual and domestic abuse. I plan on continuing to work with Senator FEINSTEIN without regard to the political winds because we have to stop playing politics with women's lives and our Nation's defense.

At a time when Democrats and Republicans in Washington can't find many areas of agreement, these are all issues on which we should and absolutely can find common ground. I implore my Democratic colleagues to end the obstruction and delay. Work with us to fund the government and support our servicemembers. Pass the USMCA and provide resources for my fellow survivors of domestic and sexual abuse. The American people are counting on us.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mrs. CAPITO. Madam President, I am privileged to be on the floor today with the Senator from Iowa, Ms. ERNST. I am here to join in a chorus of voices to ask this Congress to do better, to do our to-do list, and to do the things people sent us here to do. I am going to highlight some of the critical items Congress still needs to get done. Senator ERNST talked about them very eloquently.

When I am home in West Virginia, people ask me about policies that impact their everyday lives. They ask about healthcare. They ask about the pensions and healthcare for our retired miners. They ask about surprise medical bills. I have certainly received them, and many people in this country every day, 2 or 3 months after an operation or a visit to the hospital, may receive a bill in the mail they had no idea was coming their way.

The high cost of prescription drugs is an issue that hits many of us in our pocketbooks, and particularly for those who suffer from disease or who are elderly, it is a particular strain on their wallets. They ask about national security and caring for our veterans. Here is one everybody complains about, including all of us here—robocalls. Can somebody please stop the onslaught of robocalls?

We have legislation, but we are not getting the action on it that we need. We need better trade deals that will help grow our economy and support our American workers.

Do you know what they are not asking me about? My constituents are not asking me about the latest impeachment headline. They are not asking me about witnesses in front of a House committee or the newest “breaking news” over on the House side. In their minds—it is just a bunch of Washington hoopla to most people.

A few days ago, I ran into some constituents while I was running errands, and they said to me: Just stop this. Stop this. Something similar happened while I was grocery shopping. The butcher said to me: Aren't you just tired of it?

Well, yes, I am.

We have 2 weeks until Congress leaves for Christmas break and 21 days until the end of the month, and we still have so much to do. Our sole focus should be on legislating and making life better for people across the country.

I can tell you, as somebody who has been in this body and in the House for several years, when you rush to judgment and when you rush to legislate, that is when things that you don't know get into bills and things that you want in bills don't get into bills. So rushing into legislating is not the fairest way to do it.

I am pleased that at long last, we are going to pass the National Defense Authorization Act that protects our national security and supports our men and women in uniform. We still need to pass appropriations bills that fund much of our Federal Government. I am the chairman of the Homeland Security Subcommittee, so I very much want to see us enact a bill that will provide critical resources to protect this country.

Homeland Security. Sure, we have Border Patrol, we have the wall, and we have ICE. Do you know what else we have? We have the Coast Guard, TSA, the Secret Service, FEMA—absolutely essential services. This includes funding for our immigration laws and also continuing to fund the work on the border wall system. I want to see us pass all 11 of these bills, as well as provide funding for our troops and our veterans. Funding medical research. I am committed to funding Alzheimer's research, addressing the opioid epidemic, infrastructure, and many other priorities.

I also have a priority that really affects just part of the country but deeply affects those of us in West Virginia. We need to enact the Bipartisan American Miners Act this year. Congress must act to save the healthcare of 13,000 retired miners and protect the pension benefits of about 92,000 people. More than 25,000 retired miners received benefits in West Virginia last year. We have a bipartisan bill to address this critical issue for our mining families and for West Virginia communities. It is critical that we pass this bill before the end of the year because this situation is getting more dire every single day.

The USMCA—United States-Mexico-Canada trade agreement—has been waiting for action all year, as Senator ERNST said. I am glad to see that Speaker PELOSI is finally moving on this. It is an agreement that will grow our economy and includes robust protections for American workers. We have to get this across the finish line.

I am especially proud of the work we are doing on the Environment and Public Works Committee. We passed a bipartisan 5-year highway bill. It had a unanimous vote, 21 to 0. It would help improve roads, highways, and bridges that Americans count on every day to travel safely, whether they are going to church, going to the job, or going on a family trip. Reauthorization of the Federal Surface Transportation Program is a top priority for the coming year.

We have a lot to do in the coming days, but we also have lots to do in the coming year. I hope we will work together and not practice the past practices of this year. I hope we will work together to get the job done.

I yield back.

The PRESIDING OFFICER. The Senator from Florida.

Mr. SCOTT of Florida. Madam President, I rise to speak today about the things Congress is failing to accomplish while Democrats in the House continue their obsession with impeaching this President to overturn the results of the 2016 election. Let's be clear. That is what is happening here. Democrats lost the election in 2016 and realized they are going to lose again in 2020. They are trying to use the impeachment process to hurt the President.

That is shameful enough, but let's think about what Congress is not doing. Congress is not passing a budget. Congress is not funding our military. Congress is not securing our border. Congress is not lowering the cost of prescription drugs. Congress is not doing the things the American people sent us to Washington to do.

I won't accept that. I have a background in business, and in the real world, if you don't do your job, you don't get paid. It is that simple. If Congress can't accomplish even the most basic tasks—passing a budget and appropriations bills in an orderly fashion—lawmakers shouldn't get a paycheck, period.

The current system is broken. No one takes responsibility, and there are no consequences. That should change. That is why we need to pass my No Budget, No Pay proposal now. Withholding paychecks from Members of Congress who fail to pass the budget will help prevent government shutdowns, which hurt the economy and millions of everyday Americans. It is also an important step to promote fiscal responsibility in the face of our staggering national debt, which stands at over \$23 trillion.

No Budget, No Pay is moving through Congress with bipartisan sup-

port. It was approved by the Senate Homeland Security and Governmental Affairs Committee in June, and it is included as part of the Prevent Government Shutdowns Act. We need to pass No Budget, No Pay now to show we are serious about the future of this Nation.

Members of Congress make \$174,000 a year. All we are asking them to do is the most basic function of government—pass the budget. It is not complicated. If you are a Member of Congress, rich or poor, and you don't believe Congress can or should pass a budget every year, then go home. There are lots of other competent people who can have your job. When the American people don't do their job, there are consequences.

It is time we make Washington just a little bit more like the real world, so I ask all my colleagues to join with me to pass No Budget, No Pay.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CASSIDY). Without objection, it is so ordered.

#### NOMINATION OF LAWRENCE VANDYKE

Mr. BLUMENTHAL. Mr. President, in the midst of all of the historic and profoundly significant events happening these days in Congress, there may be a temptation to overlook some of the judicial nominations that are coming to the floor of the Senate, some of them almost a caricature of the unqualified nominees that we have seen all too often. One is before us today, Lawrence VanDyke, who has been nominated to the Ninth Circuit.

Over the past 3 years, we have watched the Trump administration march ceaselessly to degrade the judiciary. Yet, even in having witnessed this travesty firsthand, I find Mr. VanDyke's nomination truly astonishing and alarming. Once again, we are faced with a nominee who lacks the support of his home State Senators, who is not even from the State for which this seat is designated, and who was rated "not qualified" by the American Bar Association. That is a pretty tough set of qualifications—or lack of them—to match, but Lawrence VanDyke has done it.

These departures from bedrock principles that once guided the exercise of the Senate's constitutional duty to advise and consent should disturb all of us, but even more disturbing is Mr. VanDyke's record as an unrelenting ideologue who has spent his entire legal career promoting an extreme political agenda. Unfortunately, that is exactly what we can expect of him if he is confirmed to the Ninth Circuit Court of Appeals. That ideological, rightwing, extremist image and record are exactly why he has been nominated by the President, who has outsourced many of

these decisions about nominations to the far-right groups that he feels, evidently, he has to follow.

Mr. VanDyke has already made it abundantly clear how he will rule on gun violence prevention issues. In an NRA questionnaire that he completed when he ran for the Montana Supreme Court in 2014, Mr. VanDyke stated that he would not support any legislation that would regulate firearms and ammunition; any restrictions on the possession, ownership, purchase, sale, or transfer of semiautomatic firearms; or legislation mandating the use of locking devices and safe storage procedures.

There are currently bills before Congress that would do each of these things. I should know, for I sponsored them. None of these proposals—none—would get a fair hearing in Mr. VanDyke's court. That predilection never disavowed, never refuted, never denied should be disqualifying.

Worse still, in the same questionnaire, Mr. VanDyke stated that the only reason he was not currently a member of the NRA was that he didn't "want to risk recusal if a lawsuit came before me where the NRA was involved." In other words, he would join the NRA; he supports the NRA; he feels like he should be a member of the NRA; and he wants to rule in favor of the NRA, but he might have to recuse himself if he were to join the NRA. That statement alone should be disqualifying.

Remember, we are talking about a life-tenured position on the Federal judiciary, not just for a few years. This is not an elected position on a State court. This is a Federal nomination to the second highest, appellate-level court in the United States, second only to the U.S. Supreme Court.

Mr. VanDyke's hostility to common-sense gun violence prevention also led him to challenge a law passed by the voters of a State he was charged with serving. In 2016—now we are talking about Nevada, not Montana—the voters of Nevada approved a ballot measure to expand background checks to cover the private sale of firearms. This closed a critical loophole in that State's laws. I have repeatedly emphasized that we must address this loophole at the Federal level. Nevada addressed it at the State level, but Mr. VanDyke, who was at the time that State's solicitor general, took the very unusual step of working to undermine the voter-approved law.

Meanwhile, when he worked for the Montana attorney general, he was all too happy to defend an extreme and poorly drafted State law that sought to exempt from all Federal regulation the firearms and ammunition that were made in Montana. Don't take my word for it, as Yogi Berra said. You can look it up. Mr. VanDyke himself stated in an email to the Federalist Society that this statute was "ill-advised" and that he could not come up with "any plausible (much less good arguments)" to

defend that State's law. That didn't stop Mr. VanDyke from defending the law nor did it stop the Federalist Society from providing him with the help he had requested in contriving arguments and concocting ill-founded claims to support the law.

When Mr. VanDyke wants a particular outcome but can't figure it out himself or he can't find the legal path to it, he turns to the Federalist Society for answers. There is no great mystery here about how he will act when he is faced with similar situations if he is confirmed as a judge for the Federal Court of Appeals for the Ninth Circuit.

Unfortunately, Mr. VanDyke's promotion of the NRA's extreme positions is far from the only plank of his far-right agenda. He has made many statements that are hostile to LGBTQ rights, including questioning the ability of gay parents to raise children and suggesting that protecting LGBTQ rights is an affront to religious liberty. He has fought tirelessly to uphold State bans on gay marriage, and he has fought to allow discrimination against LGBTQ people in public accommodations. His open hostility to LGBTQ people was one of the main reasons the ABA rated him "not qualified." Not only is it clear how he would rule on issues relating to those rights, but the ABA was not even confident that he could treat LGBTQ litigants fairly regardless of the issue before him. That is disqualifying.

Mr. VanDyke is also an ideologue on reproductive rights issues. His adherence to his extremist positions against women's healthcare and reproductive rights has blinded him to the need about these rights. In 2013, he signed an amicus brief that stated: "A growing body of scientific literature shows that a fetus can suffer physical pain at 20-weeks' gestation." That view was rejected emphatically by the American College of Obstetricians and Gynecologists, which felt compelled to put out a statement that laid this dangerous "fetal pain" myth to rest.

Whether he cannot tell the difference between fact and fiction or simply feels comfortable misleading the court, this kind of behavior is disturbing for a Federal judicial nominee. Ordinarily, this kind of indifference to the truth would be disqualifying for a Federal nominee. Ordinarily, blind adherence to ideology would be disqualifying for any nominee to an important position of trust and respect. Ordinarily, the fact that a nominee is unqualified would be disqualifying itself. Yet, for Mr. Trump, these are not disqualifying flaws. They are, in fact, the reasons for his nomination.

So let's send the White House a message that we will insist on qualified nominees. They may have views that are different from ours, but they should be qualified to hold these lifetime positions of trust on our Nation's highest courts. I hope that we will reject Mr. VanDyke's nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Mr. President, I join my colleague from Connecticut, Senator BLUMENTHAL, and others in urging my colleagues to oppose the nomination of Lawrence VanDyke.

I may risk repeating some of the ground that has been covered by Senator BLUMENTHAL, but I think it is important enough that we reiterate over and over the dangerous nature of this particular nomination.

I have come down to speak on the floor in opposition to maybe only a handful of the President's judicial nominees. In fact, if you look up the voting record, I probably am amongst a very small handful of Democrats who have routinely voted for the President's nominees—not just judicial nominees but also his appointments to positions in his administration.

Often in committee, I am the only Democrat supporting some of the President's nominees and appointments, and that is because I have come to the conclusion that this body should give deference to the administration and to the President when it comes particularly to filling the positions of those who work for him in political appointments but to a degree as well in the judiciary.

So I put my votes where my test is, and probably with only two or three exceptions in the Democratic caucus, I have voted for more of the President's nominees than the rest of my colleagues on this side of the aisle. My test is pretty simple. One, I want individuals who are qualified. Obviously qualifications are sometimes in the eye of the beholder, but I want folks who know something about the job they are about to undertake or have some set of skills that will be relevant. Second, I want to make sure the candidates we are reviewing for judgeships or administration posts are not out of the mainstream—I mean the conservative mainstream. I don't want folks who have radical points of view.

Mr. VanDyke doesn't pass that test as far as I am concerned, and that is why I chose to come down to the floor and express my opposition to his nomination. In particular, I do not believe Mr. VanDyke is within the mainstream when it comes to his positions on the issue of gun violence.

Obviously this is a personal issue not just to me but to everybody in this Chamber, and we have a lot of disagreement—maybe a narrowing set of disagreements on the policy surrounding what we should do to better protect this country against the growing scourge of gun violence. But Mr. VanDyke has held a position that would take away from this body the ability to keep our friends and our neighbors and our constituents safe. Mr. VanDyke's record as a candidate for the supreme court and as solicitor general was to endorse views outside of the mainstream that would take away from us the ability to pass laws to keep people

safe. Let me tell you what I am talking about.

First and foremost, he was a vocal proponent of something called the Firearms Freedom Act. As solicitor general of Montana, he argued that the Federal Government should not have the power to regulate gun ownership in his State of Montana.

This is a political cause that is picking up steam in some conservative circles around the country, but it is still a radical notion, the idea that the Congress can pass a law restricting who can own a gun or what kinds of guns can be owned and that a State can just claim those laws are not valid in that State. That is what Montana was attempting to do, and that is what Mr. VanDyke was pushing—the idea that that State was just going to conveniently avoid enforcing Federal firearms acts and laws.

That position is unconstitutional, and Federal courts have held that it is unconstitutional, but that didn't stop Mr. VanDyke from pushing what is essentially a political cause—the idea that one of the ways to stymie Federal action on guns is to just convince States to pass laws saying they won't enforce Federal laws. That is a very slippery slope to go down—certainly on the issue of enforcement of firearms laws, but it is a slippery slope to go down with respect to any Federal laws that States may want to ignore or invalidate.

Second, Mr. VanDyke has taken a position opposing the constitutionality of restrictions on the sales of certain types of weapons.

We have big disagreements here as to which kinds of weapons should be sold commercially and which kinds of weapons should be reserved for law enforcement and the military. I believe that semiautomatic, assault-style weapons like the AR-15 are best left in the hands of those they were designed for—soldiers and law enforcement. Many of my Republican colleagues don't agree. But that should be a debate we have here, and I simply do not believe our Founding Fathers would accept the premise that the Constitution restricts our ability to decide what kinds of weapons should be in civilian hands and what kinds of weapons should be in the hands of the military. There was all sorts of gun regulation happening at the time of the passage of the U.S. Constitution. They were not unfamiliar with the idea that government was going to have a hand to play in regulating firearms, and I reject the idea that the Constitution bars us from having those debates.

Mr. VanDyke has spent a lot of time arguing that the Constitution prohibits Congress from acting to keep dangerous weapons out of the hands of civilians. It is one thing to have a policy objection; it is another thing to put somebody into the Federal court system who doesn't think we should have ownership as a political body of a question that is inherently political, not constitutional.

I come to the floor to point out just a handful of ways in which Mr. VanDyke's record, I believe, is outside of the conservative mainstream when it comes to guns. I think he holds positions that would make even NRA-endorsed Republicans in this body a little uncomfortable, especially this idea that States can nullify Federal firearms laws.

Although I think there are many reasons to draw issue with this particular nominee, I put this set of issues at the top of the list. Again, this is coming from someone who has spent a lot of time supporting the President's nominees with whom I have big policy disagreements. I think this is beyond a question of policy disagreements. This is someone who is going to bring some pretty radical ideas on what the Constitution allows States to do and what the Constitution allows this body to do when it comes to keeping our constituents safe.

I would urge us to oppose Lawrence VanDyke's nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

(The remarks of Mr. LANKFORD pertaining to the introduction of S. 3009 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LANKFORD. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, let me begin by commending our friend from Oklahoma for his patience. It takes a lot of patience to get things done around here. It also takes a lot of perseverance. Sometimes I think that if you can't convince people, maybe you can just wear down their resistance over time. But this is an idea whose time has come, and I congratulate our friend from Oklahoma and Senator HASSAN and would love to join them in supporting their effort. Thank you.

#### IMPEACHMENT

Mr. President, as you heard from the Senator from Oklahoma, this has been another wild week in Washington, DC. It looks like the House is working to remove the President of the United States and that their work is nearing the finish line.

This morning, the House Democrats unveiled articles of impeachment, and it looks like the Judiciary Committee is headed for a vote later this week. I assume that means it will come to the floor of the House next week before they leave.

On top of that, this morning, Speaker PELOSI announced that House Democrats and the Trump administration had reached an agreement on the USMCA—the United States-Mexico-Canada trade agreement—which would be the successor to NAFTA.

In my State, NAFTA is not a dirty word, and indeed, I believe, by the Chamber of Commerce figures, which indicate that NAFTA and trades between Mexico, United States, and Can-

ada supports about 13 million jobs in the United States alone, and the USMCA will improve that NAFTA trade agreement, create more jobs and more prosperity. I will be looking to see what this looks like in writing.

We had Ambassador Lighthizer, the Trade Representative, on the conference call this morning trying to go through some of the top lines, but I am still reviewing the details of this agreement to ensure that it is in the best interest of my constituents, Texas farmers and ranchers, manufacturers, and consumers.

#### GOVERNMENT FUNDING

Mr. President, as you heard from the Senator from Oklahoma, we are just 10 days away from a complete government shutdown unless we reach some sort of agreement on spending bills. We thought we had taken care of this last August when Democrats and Republican Senators and House Members agreed to a top line of spending, but unfortunately, after the August recess, our Democratic colleagues walked that back and led us now up to the precipice of, yes, another government shutdown.

#### RUSSIA INVESTIGATION

Mr. President, on top of all of this, the Justice Department Inspector General, Michael Horowitz, yesterday released his report on the counterintelligence investigation of the Trumbull campaign and any potential contacts with Russia.

We know Director Mueller, Special Counsel, has concluded after about 2 years that there was no collusion, no obstruction, but this was an investigation of something called Crossfire Hurricane, which is a counterintelligence investigation by the FBI that ultimately led to the appointment of the special counsel.

I want to talk a little bit in advance of Inspector Horowitz's appearance before the Judiciary Committee tomorrow because it is very, very important. We may recall that this process started about a year and a half ago after speculation over the motivation and the methods of the FBI in opening up an investigation on President Trump when he was still Candidate Trump. The 2016 election was historic in many ways, but one of the ways in which it was historic in not a positive way was the fact that both Presidential candidates were under active FBI investigations leading up to the election—Hillary Clinton, for her use of a private email server.

We saw the press conference held by Director Comey on July 5, I believe it was, only to reopen the investigation publicly days before the election. You can imagine how Secretary Clinton felt about Director Comey's actions and what potential influence it had on the outcome of the election, but now, depending on which TV channel you watch or what sort of social media feed that you subscribe to, there are vastly different narratives about what this inspector general report that spans 400-plus pages does or does not prove. But

when you take away all the spin, there are some key findings in this report that should be of grave concern to every American—Republicans, Democrats, unaffiliated. If you are an American citizen and you care about civil liberties, you should care about what is in this report.

First of all, there are errors and inaccuracies in something called a foreign intelligence surveillance warrant. People may not realize it, but the intelligence community cannot open up an investigation on an American citizen unless they get a warrant issued by a judge upon the showing of probable cause to believe that a crime has been committed.

Now, the law is different when it comes to non-citizens overseas, and that is what the Foreign Intelligence Surveillance Act purports to cover, the procedures and the protocol and the oversight of that very delicate yet very important process.

One of the things that gives me assurance that our intelligence community is operating within its guidelines and the law is the oversight that Congress provides on a regular basis. It is the laws we pass, like the Foreign Intelligence Surveillance Act. It is the work being done by the committees, the Select Committee on Intelligence.

I see Senator WYDEN from Oregon who serves and served with distinction on that committee for a long time, but those intelligence committees, both in the House and the Senate, provide essential oversight of our intelligence agencies to make sure they stay within the guardrails, to stay within the guardrails that Congress prescribes under the law.

Then there are the internal rules used at the FBI, the National Security Agency, the Central Intelligence Agency, that they have to comply with, their own internal guidelines derived from the authorities Congress provides. Then there is a very important court called the Foreign Intelligence Surveillance Court. When the FBI believes they have to open an investigation into a potential intelligence matter, they can apply for a foreign intelligence surveillance warrant, which opens up authorities they can use to gather intelligence to investigate this threat to national security of the United States, but it is a very laborious and detailed process.

They have to apply to the court, and the court relies on the representations made in that application. That is why you have heard so much discussion in recent months and even years about the foreign intelligence surveillance application issued on some of the people affiliated with the Trump campaign, including a man named Carter Page. These documents are submitted to a Federal court to determine whether the government should have access to what would otherwise be private communications.

In this instance, the question was: Was there any indication Mr. Page was

an agent of a foreign power and improperly using his relationship with the Russian Government and the Russian intelligence services to become a threat to the national security of the United States?

I would think we would all agree, as a fundamental matter, that spying on an American citizen is no small thing, but that is what we are talking about here. There are strong and exhaustive processes in place to prevent the government from abusing the powers provided under the Foreign Intelligence Surveillance Act, and that supports where the Foreign Intelligence Surveillance Court comes into play.

This court, like most courts, relies on the honesty and the accuracy and the completeness of the information provided to do its job properly, but we know in the case of the Carter Page application, there were a multitude of errors. In fact, the inspector general has identified 17 errors in the four different applications for a warrant under the Foreign Intelligence Surveillance Act.

One of them jumps out at me because it involves a lawyer in the general counsel's office at the FBI altering a government record and intentionally deceiving the FISA court about Carter Page's involvement with the intelligence community—in this case another member of the intelligence community, a Federal agency. But this lawyer with the FBI Office of General Counsel intentionally altered that record so that, in the application for the FISA warrant, the FBI would literally be relying and deceiving the FISA court about the facts. That is a grave and serious and profound problem.

We know there are a number of other errors. That is hardly an error. That is an intentional act for which I understand the gentleman who made that doctored email has now been referred for a criminal investigation and perhaps prosecution for intentionally violating the FBI's policy and providing a deceptive piece of information to the FISA court.

Willingly, I know Mr. Horowitz is going to be asked about political bias, and he says there is no documentary or testamentary indication of political bias, but I think what this report demonstrates is something a lot more serious than political bias. It demonstrates an abuse of power that ought to concern every American citizen because, if these rogue agents at the FBI—primarily the leadership of the FBI—can do this to a Presidential candidate, Donald Trump, or the President of the United States, they can do it to any one of us. What sort of power would we have if the might of the Federal Government was concentrated in a raid against us in this sort of investigation? That is why we must take these sorts of failures and intentional deceptions very, very seriously.

Well, to make matters worse, we know this application relied on the deeply flawed Steele dossier. Well, the

Steele dossier was a piece of opposition research produced by the Hillary Clinton campaign against Donald Trump. What they did is they hired a former intelligence agent from the United Kingdom, Mr. Steele, to generate what has now been called a dossier. I want to remind my colleagues that, when Attorney General Barr testified before the Judiciary Committee earlier this year, I asked him if he could state with confidence that the Steele dossier was not a part of a Russian disinformation campaign, and the Attorney General said, no, he could not make that statement with confidence.

He told the committee that this is one of the areas he was reviewing as part of his investigation, but he said, "I don't think it's entirely speculative."

The inspector general touched on this in his report but noted that an investigation of this dossier falls outside the scope of the inspector general's oversight role. His job is primarily to do oversight of the FBI and the Department of Justice and not to investigate these outside matters. But we need to know with confidence whether this Steele dossier was part of a Russian disinformation campaign. We are all profoundly concerned about foreign countries becoming involved in our elections, and there was no more intrusive means of getting involved in the 2016 election than the generation of this dossier. We need to know its provenance. We need to know whether this was planted by our adversaries in order to create distension and discord, which has been obviously the result of this investigation for the last 3 years. So I hope Attorney General Barr or U.S. Attorney John Durham will be able to provide clarity on this topic.

This is especially important considering we learned from this 400-page-plus report that the dossier played a central and essential role in the FISA process. As time went on, a new and even exculpatory or innocent information was discovered. We know that the information provided by the FBI in these renewal applications for this FISA warrant were not correct.

Well, the inspector general failed to resolve whether the FISA was improperly issued, but the report suggested the FISA board is considering this question, as well it should. I have never sat on a FISA court, but I have spent 13 years as a State court judge. When you lie to a judge, that judge takes it seriously, and they have contempt powers and other recourse when that happens. So it is essential that the FISA court weigh in.

Let me say once again, no American should be subjected to this kind of abuse of power by their own government. That is why we need to restore the public confidence in the FBI. I believe Director Chris Wray has begun that process and make sure that these types of egregious errors and intentional acts do not become the norm.

Director Wray sent a letter to the Department of Justice's Office of In-

spector General, detailing actions his agency will take to strengthen the FISA processes and make these documents less susceptible to errors or intentional alterations. I appreciate the Director's acknowledgement of these problems under the agency's previous leadership and his commitment to preventing similar errors and alterations.

That brings me to another concern. This has to do with something called the defensive briefings. This is something that Loretta Lynch, the former Attorney General, said was routine in counterintelligence matters. Let me explain for a minute.

The FBI provides many different functions. We are most familiar with its law enforcement investigation function. They investigate potential crimes and present that to the Department of Justice, which then decides whether to charge a person with a crime. That is one of the most important roles the FBI plays. But it also plays a very important role when it comes to counterintelligence; that is, countering the malign activities of foreign nations like Russia and China and the threats they pose to our national security.

What Loretta Lynch told us is that these defensive briefings are fairly standard. It is an opportunity for the FBI to advise the target of these threats by a foreign influence so that they can take steps to protect themselves. We know that both candidates, Hillary Clinton and Donald Trump, received something called the defensive briefings in August of 2015.

The defensive briefing for the Trump campaign lasted 13 minutes, according to this report. It was a check-the-box, perfunctory defensive briefing. I am confident the FBI did not come in to tell President Trump, then-Candidate Trump: The Russians are checking the doors and the windows, and they are trying to break into your campaign. You need to tell these people who are affiliated with your campaign to keep their eyes open and to knock off their association with these likely Russian intelligence officers.

At the time, the FBI believed the Russians were infiltrating the Trump campaign. The FBI should have told them, but they didn't. So this is different from a criminal investigation, as I said.

The FBI was presented with a couple of options when it came to advising the Trump campaign. One was to provide as much information as possible so that they could have given a real, constructive briefing about known threats and sufficient information to help the Trump campaign mitigate the threat. But that is not what the FBI did.

Option two was to provide a generic briefing—no specifics, no names, no real details, just a generic warning that foreign governments are actively working to interfere with the election and maybe a little lecture about cyber hygiene and why you should change your passwords, maybe get dual authentication when it comes to accessing websites and email, and not to

click on those phishing emails that we all get from time to time that could unload a Trojan horse or some other malware onto your computer. But that is not what FBI did here either.

Somehow, the FBI managed to come up with a third option, as documented in this report. They used this briefing not as a way to alert the Trump campaign of potential threats from Russian intelligence services; they used it as an opportunity to conduct an investigation against General Flynn, who worked on President Trump's campaign. They were even so bold as to insert one of those investigatory agents—part of the Crossfire Hurricane investigative team—into that briefing with President Trump and his campaign.

Knowing that the FBI did that in this case, I can't imagine many campaigns that would want a defensive briefing because you, frankly, couldn't trust the intentions of these officials. Would you believe that they were there to share intelligence and help you protect American national security or conduct an investigation, unbeknownst to you?

When we talk about the need to secure our elections from foreign interference, you can't, in the process, destroy public confidence in all of our institutions, including the FBI.

I want to be clear. I am glad Director Wray addressed these defensive briefings yesterday, among other matters. I have confidence in Director Wray, and I think a new leadership in the FBI since all of this terrible period occurred has been encouraging.

Director Wray has clarified what his predecessors clearly missed, saying: "The FBI's role in these briefings should be for national security purposes and not for investigative purposes."

This report has left me with a number of questions and a lot of concerns, and I am glad we will have the opportunity to ask Inspector General Horowitz more about this report tomorrow in the Judiciary Committee.

It is important that we get to the bottom of concerted efforts to deceive the Foreign Intelligence Surveillance Court and the use of salacious and unverified materials in order to justify the issuance of these very sensitive FISA warrants.

I believe some of the actions the inspector general has identified undermine public confidence in our public safety and national security measures, and that is something we should all be willing to fight for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

#### HEALTHCARE

Mr. WYDEN. Mr. President, when the Trump administration comes to an end, it is going to leave behind a host of sad and, I would consider, shameful legacies, and right near the top of the list will be the shocking number of children who have lost healthcare coverage under this administration.

I am sure folks can't really see the specific numbers here, but this trend line is what is important, taking figures from the Census Department—people who are not political; they are not Democrats or Republicans. What this chart, based on census data shows, is that, for year after year after year, we saw the number of uninsured kids in America go down. That is something I think was important for our country. It said a lot about our values, and it certainly said a lot about our healthcare system.

Sure, we are going to spend more than \$3.5 trillion on healthcare. If you were to divide that up into 320 million Americans, you can send every family of four a check for \$40,000. So we are spending enough on healthcare, but we are not spending it in the right places.

In particular, I wanted to come to the floor—and I am glad to see my friend, the Presiding Officer, who has worked with me on a variety of healthcare issues; we have some areas we are going to be talking about in the days ahead. To me, one of the areas of healthcare, until recently, we could all take pride in was this chart, which nobody could really see, but it showed this trend line in which the number of uninsured kids was going down.

Unfortunately, in the Trump administration, that trend line of years and years and years of more kids getting healthcare coverage has been reversed, and now more kids are uninsured.

How did the Trump people do it? They are not going to stand up in front of a government agency and say: Oh, we just don't like kids. But what they did is hurt those kids and their parents by keeping them in the dark for years while there were efforts, bipartisan ones—my friend, who joined the Finance Committee recently, knows that our previous chairman, Senator Hatch, worked with me for a record-setting extension for the Children's Health Insurance Program. The efforts to expand coverage for kids were all bipartisan—always—going back, really, for decades now, particularly on the Finance Committee.

I think of the late Senator John Chafee and the late Senator John Heinz—people whom I admire so much—and they always wanted to find common ground, Democrats and Republicans, working for children. But now the Trump administration, in the dark, has come up with proposals that have made it harder for parents to sign up their kids, harder for them to stay enrolled, and harder for these families—parents with young kids—to even know about their rights, their rights to healthcare.

So now, as a result of the Trump administration's reversing this trend of years and years of expanded coverage for kids, we have hundreds of thousands of parents clinging to the hope that their kids don't get hurt on the playground, catch flu in the classroom, or worse.

We know that this falls hardest on the families walking an economic

tightrope. Every month they are balancing their food against their fuel bill, their fuel bill against their healthcare. One injury, one illness, could be financially devastating for these kids and their families, and it can be a major setback for kids for years, if not for the rest of their lives. How is a sick kid supposed to succeed in school and get ahead if they are unable to see a doctor when they have serious illnesses?

I have mentioned that I know the two sides—this side of the aisle and that side of the aisle—can work together to find common ground on children's healthcare.

At the end of his service, Chairman Hatch—who, as my colleague the distinguished Presiding Officer knows, cared greatly about kids; he was very involved with the late Senator Ted Kennedy and others in coming up with the children's health plan—said: We want to set a record. We want to get a 10-year extension of the Children's Health Insurance Program.

We managed to do it. But if you cut the services for people to find out how to get enrolled, stay enrolled, and if there are changes in programs, those changes in policy, which took place when the Trump administration came to Washington, rippled through very quickly to communities across the country where vulnerable Americans depend on getting good quality healthcare. I just think it is unconscionable.

As I mentioned earlier in my remarks, for a country with the resources America has, you wouldn't step in if you saw this trend of progress—fewer uninsured kids—suddenly be reversed. And it really happened very quickly. When the Trump administration took over, you would say: Hey, let's get Democrats and Republicans together, pull out all the stops to fix it, and get the trend line going in the right direction again with more kids getting healthcare coverage. We would have had to take on the Trump administration here in the Congress. We would have had to take on all of those programs in which the Trump administration made it harder for kids to get enrolled and to stay enrolled, but it would have been the right thing. It would have been the right thing for Democrats and Republicans in the Congress to step in and take on the Trump administration and say: Look, we understand there can be debates and differences of opinion, but you don't score points by attacking the services for children available under the Affordable Care Act.

I am going to keep working to reverse this crisis. My colleagues have been coming from this side of the aisle all through the day to talk about this scourge: the reversal of the trend in this country with respect to healthcare coverage. We used to be expanding it for kids. Now it is going the other way. The amount of coverage is being reduced.

I just want to say, as the ranking Democrat on the Senate Finance Committee, which has jurisdiction over many of the healthcare programs that are most important for kids and families on an economic tightrope, I and I know my colleagues on the Finance Committee—several of whom have spoken over the last few days on this subject—would be glad to work with any Republican in this Senate who wants to turn this around. If any Republican is listening to this and wants to come to the floor and say: I am interested. I am interested in turning around this ominous trend. I am interested in turning around this trend where healthcare coverage for kids is going down, and I want to work with Democrats to do it, I will commit, as the ranking Democrat on the Finance Committee, to say: Thank goodness. We have to get on this. This is too important to our country and to our future to just sit idly by and say we are going to reduce the number of kids who are getting healthcare coverage because we are not going to give parents the opportunity to find out how to get enrolled and stay enrolled and know what their rights are.

A country as strong and good and rich as ours ought to be looking for every possible opportunity to help kids get ahead in life. That, in my view, starts with access to healthcare. Right up at the top of the list, it starts, in my view, by saying that this trend line, which after years and years of showing more kids were getting covered, is now going the other way, and fewer kids are getting covered. We are going to say, as a body in the U.S. Senate: We are going to change that, and in a country that is as strong and good and rich as ours, those vulnerable families are going to be able to get healthcare again.

I suggest the absence of a quorum. The PRESIDING OFFICER (Ms. MCSALLY). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

#### LEGISLATIVE WORK

Mrs. BLACKBURN. Madam President, it has been so interesting today to hear my colleagues talk about the things we have done this year, the things we have to get done before the end of the year that haven't been addressed yet, and then things that need to be addressed this next year in 2020.

I will tell you, 2019, for me, I look at it as, I would say, successes and stalls and then some forward motion on some really important pieces of legislation. To get there, we really have had some fairly intense debates, which have prompted our constituents and those back in Tennessee to have their own discussions about what they think is or is not happening here in Washington, DC.

My hope is that their debates around the kitchen table are sometimes less heated than ours, and certainly I hope that their Thanksgiving table debates were less heated than some of these that you see taking place here.

Tennesseans, like a lot of Americans, when they end up talking about what we are or are not doing here in Congress, they revert back to first principles. I cannot tell you the number of times over this past holiday that I heard people say: Look, for me, it is all about freedom. It is all about defending the freedoms that we have—protecting that life, liberty, and pursuit of happiness.

They are looking at that. It is fair to say they think in the long term. While many times I think the media here in DC just follows that shiny object story of the day, whatever is generating clicks and likes and headlines, that is where they are, but Tennesseans are not focused that way. What they would like to see is for our actions here in Washington to be taken in a way that are going to keep them and their neighborhoods and their friends safe and secure and healthy and free and keep them out of the reach of government overreach, if you will.

As someone said to me last weekend, “I just want the Federal Government off my back and out of my pocketbook. I want to be able to keep working and keep growing my business.” A lot of people are there.

Now, we have seen movement this week. A very good thing that has happened is the National Defense Authorization Act. I know that Madam President has worked tirelessly on this, as have I, for all of our military community members in Tennessee. We have been very pleased that we are going to see Fort Campbell and the divisions that call Fort Campbell home getting the funds and the equipment they need in order to protect themselves and to do their jobs—whether it is Chinooks or more training capacity or equipment and also an emphasis on making certain that we are keeping their homes safe so those families are safe in that military on-post housing, that privatized housing, while their loved ones are deployed.

While we are looking at other components of the NDAA, Tennesseans have been very concerned and are very pleased, I will say, about what has transpired with Oak Ridge National Labs and Y-12. Oak Ridge is a treasure for our Nation, and much of the research in supercomputing and hypersonics is being done there.

Also, in the Senate this year, we are paying attention to the implementation of legislation very important to our songwriters. I know you have heard me say, time and again, that Middle Tennessee, Nashville, is one of the most creative communities on the face of the Earth and home to more songwriters than anywhere else on the face of the Earth, and the Music Modernization Act is going to make certain that

Nashville artists and songwriters are being paid fairly for the work they are creating. We are pleased that these are all things we have worked hard on, and we see these as priorities.

When it comes to a legislative agenda that has taken much of my time, I started this term in the Senate working on some things that protect the unborn, much as I had done in my service in the House. The first bill I introduced over here was the Title X Abortion Provider Prohibition Act, and this is something Tennesseans wanted to see done to make certain that tax dollars would not be used to fund or support abortion providers, and it would not go to those clinics.

What Tennesseans wanted to see was those tax dollars being put to work in rural healthcare and enable access to healthcare for women and for individuals who did not have access to basic healthcare needs. Our State has been hit hard by rural hospital closures, and thousands of Tennesseans are now forced to drive miles out of their way to seek basic care. I will tell you, this is concerning, especially for the people living in the most remote areas of the State for whom there is no such thing as a quick ride or a quick ambulance trip to the hospital. It is miles of travel sometimes, when those minutes are very precious and they feel that time is passing quickly and it is critical to get to that care.

As part of my work this year, I have worked on and developed a rural health agenda, which has earned bipartisan support here. I thank Senator DURBIN for his work with me on this. I will tell you, this is legislation that, yes, it has bipartisan support here, but it has a lot of support scattered around the country.

What this will do is support the establishment and expansion of medical facilities in rural areas. It will help doctors and other medical practitioners set up shop outside of the more convenient and lucrative urban bubbles. It also will enable telemedicine so that you are taking healthcare out to these areas that have a difficult time getting in.

Speaking of the urban bubble, a lack of access to healthcare isn't the only thing that is causing headaches right now in rural America. Here, in Washington, we don't have to worry about having a reliable phone signal or an internet connection. We are really fortunate in that regard. We know when we click on, it is just going to work, but outside of America's metropolitan areas, communities that lack these resources are falling behind. My Internet Exchange Act will ensure that rural areas are able to build and maintain the infrastructure needed to support high-speed internet connections, which will in turn support business growth and e-commerce and encourage investment from outside corporations looking to expand.

You cannot have 21st century education, economic development,

healthcare, or law enforcement without access to high-speed internet. Continuing to close that digital divide is a priority, and I thank my colleagues for the good progress we have made this year.

Of course, that connectivity comes with a price. Opening ourselves up to the online world means opening ourselves up to the possibilities of cyber attacks. This is a problem we have to approach as a matter of national security, as well as on the corporate side and in our homes.

In addition to funding for military pay raises and upgraded equipment, this year's NDAA, or the National Defense Authorization Act, includes support for the assessment and expansion of our cyber warfighting capabilities. As I said, that is only one very important part of the equation. While I was serving in the House and before I came to the Senate, I worked on legislation that will get consumers all the information they need in order to make a decision about how they want to share their private information and to whom they want to give access to that information.

Once passed, my bipartisan BROWSER Act will give consumers more control over how big tech uses their personal data. You, the consumer, should be able to own your virtual you. You should be able to protect your presence online, just as you are able to protect your being yourself in the physical space.

In return, tech companies will be free to innovate and use that data to build their platforms, and that is what helps make them profitable—new innovations. They can do that as long as they respect your wishes on how you want them to use your data.

As head of the Judiciary Committee's tech task force—and I do thank Senator FEINSTEIN for her leadership in leading this group at the Judiciary Committee—I have had the privilege of bringing both sides together on this debate and to the table to have productive discussions on how to responsibly regulate big tech. I look forward to continuing that in the New Year.

As we draw to a close, I remind my colleagues that in Tennessee people remind me regularly that we are a government of the people, by the people, and for the people. As we talk about things that have been done this year and things that we need to do before the end of the year—things like getting VAWA passed—we need to remember that for all of the shiny-object stories that circulate around here every single day, the people back home are saying: Your responsibility is to care for the issues that are important to me. That is where they would like to see us spending our time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I have one very short remark that I want to make and then longer remarks to my colleagues.

#### IMPEACHMENT

Madam President, House Democrats announced that they are moving to impeach President Trump for—in their words—abuse of power. When all of this started, Democrats said the President committed a quid pro quo, but that didn't poll very well among the American people. At that point, the House Democrats switched to an accusation of bribery against the President. Maybe that didn't poll well either or maybe they discovered that history doesn't support their definition. Finally, they settled on abuse of power.

It is kind of like a Goldilocks impeachment. The “quid pro quo” bowl was too cold, and the bribery bowl was too hot. But, apparently, abuse of power tastes just right, while the American people are increasingly getting a bad taste in their mouth about the Democrats' partisan impeachment story.

#### RUSSIA INVESTIGATION

Madam President, I want to comment on the Horowitz report, out yesterday. On Monday of this week, the Justice Department inspector general released his report on the Justice Department and the FBI investigation into the debunked theory that the Trump campaign colluded with the Russian Government. I have pushed to shine a light on the origins of the FBI Russia investigation for more than 2½ years. You can see that it has been a long road.

When information is embarrassing, the FBI has a way of fighting tooth and nail to keep it all secret, to keep it heavily classified. The FBI is hiding behind vague procedural excuses about protecting the integrity of ongoing investigations and all kinds of excuses not to come forth and not to let public information come forward that might embarrass them.

In this case, they put up a wall. You have to keep swinging in order to crack that wall. I started looking into the origins of the FBI's corrupt Russia investigation way back in March of 2017. At that time, it became clear that the FBI had used Christopher Steele's work to investigate then-Candidate Donald Trump. This was all done even though the FBI knew that Steele was working for an organization called Fusion GPS. Fusion GPS is an opposition research firm paid for by the Democratic National Committee and the Clinton campaign. The FBI knew that.

When the FBI didn't answer my questions, I used my authority as chairman of the Senate Judiciary Committee to hold up the nomination of Deputy Attorney General Rosenstein. That got the Judiciary Committee a briefing from the FBI. It consisted of a lot of veiled half answers and assertions that somehow Christopher Steele was reliable. We all know that he wasn't reliable. I will give details on that shortly.

In June of 2017, I asked the FBI to produce all the FISA applications related to its Russia investigation. After 6 months of wrangling, in December

2017, Senator GRAHAM, Senator FEINSTEIN, and I were permitted to review the four FISA applications in which the FBI sought authority to surveil former Trump campaign staffer Carter Page, as well as a number of classified documents relating to Mr. Steele.

I also directed my staff to look in public places that others were ignoring. That led us to Mr. Steele's court filings in London. What my staff found was that Mr. Steele had admitted to passing some of the contents of his dossier far and wide to media organizations. That raised a very important question about whether information Steele gathered was open to manipulation or just part of one big feedback loop.

We also learned that, according to the FBI, Steele had told the FBI he had not spoken to the media about his findings, and that was in direct contradiction to what he said in court in London.

After reviewing all of this information, Senator GRAHAM and I wrote a letter referring Mr. Steele to the FBI for potential violation of 18 USC 1001. That section of the code makes charges of lying to the FBI. At the heart of our referral was an 8-page memorandum that laid out much of what we had learned from my investigative efforts at that point.

We now know from the IG report that the FBI top brass was aware of Mr. Steele's statements to the British court in spring 2017, but the FBI never accessed those filings and never considered telling the Foreign Intelligence Surveillance Court that its assurances about Steele's third party contacts were in fact wrong.

As soon as the referral went out, I began pushing the FBI to declassify as much of those referrals as possible. The FBI resisted my efforts every step of the way because this is probably going to be very embarrassing to them.

My fight to make information in the referral memo public was helped along very directly by President Trump, who declassified a memo prepared by the House Intelligence Committee that touched a number of the same topics.

In February 2018, Senator GRAHAM and I also wrote Inspector General Horowitz to call his attention to everything we had learned and request that he conduct a comprehensive review of improper political influence, misconduct, and mismanagement of the FBI's Russia investigation.

My efforts have been based on my investigative activity and also the overriding need for more transparency from the American Government because transparency brings accountability.

After the release of the Russia report, there had better be accountability. The inspector general's findings ought to concern every single Member of this Chamber because it concerns the American people. We the people have a profound, deep, and abiding respect for fundamental constitutional rights. These fundamental rights

have not been granted or created by the government. Our rights are God-given. Our rights are inalienable, and our rights are self-evident. The inspector general's report shows that despite all the checks we put in place to ensure the government will not infringe on those rights without proper cause, it is still possible for bad actors to lie, for bad actors to withhold information, and for bad actors to doctor documents in order to get around those safeguards to achieve their own goals.

The inspector general's report has finally let some light shine on the wrongdoing that occurred with the Justice Department and the FBI during this infamous Russia investigation. Let's start then with that Steele dossier. The Steele dossier played a very "central" and "essential" role in the Russia investigation, according to the inspector general's report. Those words, "central" and "essential," come from the report.

Before the FBI got it, they tried to open a FISA on Carter Page, and there wasn't enough evidence, but once the dossier was acquired, that was the tipping point for the FBI to tell the FISA Court that it had probable cause that an American citizen was an agent of a foreign government.

We now know that this central and essential document was not even a finished product. The dossier was based on single-source reporting, and Steele wasn't even the original source. He had a primary subsource who used multiple sources who, we now know, didn't even have direct access to the people they were reporting on. Some of these sources were Russian Government officials. We are talking about many, many levels of hearsay.

Well, the FBI got around to interviewing that primary subsource but only after the FBI opened a FISA warrant on Carter Page. Think about that, will you? The FBI used one of the most powerful and invasive investigative tools without first verifying the information it provided the court. The primary subsource raised the following issues: One, Steele had reliability issues; two, the primary subsource had not seen the dossier until it was made public; three, Steele misstated and exaggerated claims; four, the primary subsource didn't think his or her material would be in the report; five, much of the information in the dossier was based on rumors, including conversations over beers, we are told, or some of those conversations were made in jest; and lastly, six, none of this material in the dossier had been corroborated.

After the FBI acquired this information, subsequent FISA renewals continued to rely on this same document that had lost all credibility, and everybody knew it. They had relied on the Steele information with no revision or notice to the court that the primary subsource contradicted Steele. Simply said, that is a fraud on the court. So the FBI couldn't get a FISA warrant

until they got the dossier, and then they kept renewing the warrant despite very clear evidence that the dossier was faulty.

It looks to me as though the FBI couldn't get their way, so they used whatever information they could, whether it was false or not, all to accomplish their goal. Their goal was pursuing an inquiry into the Trump campaign.

We all know about one of Strzok's infamous text exchanges. Page said this in the text: "[Trump's] not ever going to become President, right? Right?"

Strzok said: "No. No he's not. We'll stop it."

These are people involved with the FBI with a very anti-Trump agenda.

So we go back. The FBI had a plan, and they would do anything. The FBI would do anything to keep that plan going. The information loop was contaminated from the start, and nobody at the FBI seemed to give a rip about it. They just wanted to continue the investigation into Trump. A part of that investigation included using defensive briefings for the Trump campaign—Can you believe this?—as a means to collect information relative to the Russia investigation and the General Flynn investigation. Would you believe that the FBI decided not to defensively brief the Trump campaign on alleged Russian attempts to interfere with the election—information that served as a predicate to opening this inquiry? But the FBI did decide to use the briefings as an intelligence-gathering operation.

Why wouldn't the FBI simply give the Trump campaign a heads-up on any and all threats? They were looking out for his safety. Why would they hide the ball? We know that they did so for prior Presidential campaigns, so if they did it for every Presidential campaign, why wouldn't they do it for Trump? Again, the FBI had a plan, and they would do anything to keep that plan going.

Another disturbing finding in the report is that the FBI recorded Page and Papadopoulos before the FISA warrant was issued. But it is unclear who the FBI used to record them. Did they work for another government? Was it a spy?

Both of these recordings offered exculpatory evidence that was withheld from the FISA Court. The FISA Court should have known this information, but it didn't. Included were denials that anyone associated with the Trump campaign was collaborating with Russia or with outside groups like WikiLeaks in the release of emails and, No. 2, that Page had never met or said one word to Paul Manafort and that Manafort never responded to Page's emails. To that second point, the dossier said that Page participated in a conspiracy with Russia to act as an intermediary for Manafort on behalf of the Trump campaign. None of that information is accurate.

The Steele dossier served as a—again, these words—"central and essential

role" in the FBI's investigation, yet it was filled with inaccurate and very false statements. It is important to remember that the FBI knew all of this. They knew about those faults all the time, and they did nothing to apprise the FISA Court, and they had a responsibility to do that. In fact, as it turns out, the FBI actively altered documents to make a better case for themselves.

The FBI altered documents. One FBI official altered an email from another government agency to say that Page "was not a source" for that agency, when, in fact, Page was with that agency.

The FBI relied on the false statements to renew the FISA warrant. That means that the FBI used Page's work, apparently, for the American Government as evidence that he was a Russian agent. The FBI couldn't get their way unless they literally falsified documents to the court to spy on an American citizen working for the Trump campaign. That ought to shock everybody in this country. The conscience of every citizen ought to be bothered that the FBI can do that. If it can happen to Carter Page, it can happen to any one of us.

The inspector general report also specifically identified 17 errors and omissions during the Carter Page FISA process and additional errors in the Woods procedures. Wrong and incomplete information was passed through the chain of command for those approving the FISA warrants. After the inspector general interviewed within the FBI chain of command, the inspector general had this to say:

In most instances, the agents and supervisors told us that they either did not know or recall why the information was not shared with the [Office of Intelligence], that the failure to do so may have been an oversight, that they did not recognize at the time the relevance of the information to the FISA application, or that they did not believe the missing information to be significant.

Regarding that last point, that they did not believe the missing information to be significant, the inspector general noted that "we believe that case agents may have improperly substituted their own judgments in place of the judgment of [the Office of Intelligence] . . . or in place of the court to weigh the probative value of the information."

That is a very extraordinary finding. We all know about the politically charged anti-Trump texts that were exchanged among FBI officials who didn't want Trump elected, and they probably hate him to this very day, including an FBI lawyer who altered documents—an FBI agent did this—to support the FISA application. Clearly, that bias affected the decision-making process. Indeed, the inspector general noted that in light of the substantial and fundamental errors in the FISA process, there are "significant questions regarding the FBI's chain of command management and supervision of the FISA process."

Really, it is quite obvious that something was terribly wrong. For example,

Stu Evans, the DOJ National Security Division official with oversight of the FISA process, did not even know that Bruce Ohr, another DOJ official, had been in communication with the FBI about the Russia investigation. He didn't know that Ohr had been interviewed by the FBI until he saw the Grassley-Graham referral.

Ultimately, the inspector general was not able to interview everyone involved in the chain of command to the extent that the inspector general wanted to do that. For example, James Comey and Jim Baker, the former FBI general counsel, did not request that their clearances be reinstated for the interviews. Quite obviously, they didn't want to be interviewed. That means the inspector general was unable to ask them classified questions related to their conduct.

Comey claims that he is transparent, but he clearly wasn't in this case. Moreover, Glenn Simpson and Jonathan Winer—the latter a former State Department official—refused to sit for any interviews at all. These individuals played key roles in the Russia investigation. It is a shame that they didn't want to speak up. So can't we legitimately ask: What are they trying to hide? From what I have seen, they are trying to hide an awful lot.

With all that said, the FBI's FISA-related behavior has been so bad that the inspector general has initiated a comprehensive audit that will fully examine the FBI's compliance with the Woods procedures. In the past, when there has been evidence of our government improperly infringing on the civil liberties of American citizens, we as a nation have firmly rejected that course of action. We have taken those moments as real opportunities to strengthen our resolve and to renew our commitment to the values that we all share about our God-given liberties and freedoms.

Under the leadership of J. Edgar Hoover, from about 1920 to 1969, which was when he died, the FBI would wiretap, recruit secret informants, and fix the paperwork in ways that trampled on the rights of ordinary Americans as a matter of practice. In those times of the FBI, it was business as usual. Let's hope it doesn't become business as usual now. That is why, during the 1970s, because of the abuse of J. Edgar Hoover, this Chamber undertook vigorous oversight efforts, under the leadership of the late Senator Frank Church, to shine a light on the excesses and abuses of our intelligence bureaucracy.

Based on what we learned from that inquiry 40 years ago, Congress passed FISA. This legislation establishes protections to ensure that government bureaucrats can't just spy on American citizens willy-nilly, whenever they feel like it. In order to surveil an American citizen, the FBI must acquire a lawful order and do it from a court of law. We give those in the FBI that power along with an expectation that they will do their due diligence in using it.

We have found out now, during this Russia investigation, that those in the FBI—in this decade—did not do that due diligence. We give this with the expectation that they will provide the court full and accurate information, which they didn't provide to the FISA court in regard to the Russia investigation; that they will follow the rule of law and their own internal guidelines; and that they will respect the boundaries Congress has set for them, instead of reverting to the freewheeling and very heavy-handed tactics that they embraced in the past.

Most of the hard-working men and women in our Department of Justice and in our FBI today understand and truly respect these boundaries. However, it seems old habits really die very hard. Politics has crept back into the FBI's work, at least at the highest levels. The actions that were taken by Obama and Comey's FBI sound an awful lot like the ones taken under Hoover.

Where do we go from here? We have to learn from our past mistakes. I have said it before, and I will say it again: Sunlight is the best disinfectant. Transparency brings accountability. It helps us take reasoned steps to ensure that the mistakes of the past will not be repeated in the future.

After what I believe was far too long a wait, I am happy to have finally received this Horowitz report that we call the inspector general's report. I thank IG Horowitz and his staff for all of their hard work. I am pleased to see that much of the inspector general's report is publicly available. Once again, this is due in no small part to President Trump's unprecedented commitment to transparency.

I appreciate the President's willingness to grant Attorney General Barr broad declassification authority, and I appreciate Attorney General Barr's willingness to use that authority to bring much of what happened out into the open. It is an important first step towards ensuring accountability. Of course, there are still many, many unanswered questions.

In going forward, I eagerly await Mr. Durham's findings with respect to how the intelligence community handled its part of the corrupted Russia investigation. Mr. Durham is the U.S. attorney in Connecticut, but he has been awarded by Mr. Barr the responsibility of getting to the bottom of all of these problems that I am talking about now and a lot of other problems. Unlike Horowitz, Mr. Durham has authority to prosecute, and he has already opened criminal investigations.

In the sense of Mr. Durham's work, I view this most recent inspector general's report as just one part in a multi-part act. Durham's public comments make clear that he finds issue with whether the opening of the Russia investigation was properly predicated. His findings may prove critical to finally and fully understanding what happened during the Obama adminis-

tration's fabricated investigation into Trump.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

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## LEGISLATIVE SESSION

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### MORNING BUSINESS

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

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### 150TH ANNIVERSARY OF THE KENTUCKY NEW ERA

Mr. McCONNELL. Madam President, it is with great pride that I pay tribute to a long-standing community institution in southwestern Kentucky. The Kentucky New Era newspaper recently marked 150 years of quality journalism and community engagement, and I would like to take a moment today to review the paper's distinguished history and celebrate its many achievements.

Prominent Kentucky newsman Chip Hutcheson, whom I am proud to call a dear friend, spent years working for the New Era, and he summed up the reason it has thrived for so long. Chip recalled a paper-wide culture of writing "columns that cemented readers' relationships to the writer and the paper." I think it is that commitment to readers and to what matters in their lives and community that has helped make the New Era the oldest business in Hopkinsville, KY.

Since the paper was launched as a weekly publication in the winter of 1869, the New Era has certainly undergone some change to solidify its relationship with readers. To meet a demand for local, State, and national news, the New Era added a daily issue, and delivered the news and commentary its subscribers wanted to read. Part of that frequent change during the early years came in the form of different owners, but in 1873, Hunter Wood took charge, and his family would steer the New Era as majority owners for the following 130-plus years.

Under their direction, the paper covered a wide range of issues affecting life in Christian County. From politics to agriculture, mixed with lighter community-interest pieces and extensive coverage of high school sports, the New Era has served as an important source of information for its readers. Its staff

would attract several award-winning journalists, including my friend Mary D. Ferguson, who held a high standard on its pages.

Adapting to changing markets, the New Era expanded its operations. To serve the nearby U.S. Army installation, the paper's media group began publishing the Fort Campbell Courier. Other respected local papers, including the Princeton Times Leader, the Providence Journal Enterprise, and Dawson Springs Progress, joined the New Era's organization to further stretch the reach of its community journalism. In whatever form subscribers want to receive their news—in print, online, or even listening to a podcast—the New Era is committed to reporting on the stories that must be told.

Just last year, the paper joined another well-respected Kentucky news institution, the Paxton Media Group. With this partnership, the Kentucky New Era has the ability to continue thriving into the future. Through the years, I have enjoyed reading the paper and speaking with its top-tier professionals, and I look forward to many more accomplishments to come.

It is a privilege to congratulate the Kentucky New Era on its celebration of 150 years of journalistic success, and I hope my Senate colleagues will join me in saluting this community institution on its anniversary. I would like to extend my best wishes to the reporters, editors, and staff who have made the New Era a vital resource in west Kentucky.

#### TRIBUTE TO JOHN CULLERTON

Mr. DURBIN. Madam President, this January, it will be 12 years since Illinois banned smoking in businesses. In 2008, the Smoke-Free Illinois Act went into effect and changed the lives of people throughout the State. There has been a 20-percent decrease in hospitalizations for conditions aggravated by secondhand smoke, like asthma, chronic obstructive pulmonary disease, and heart attacks. High school smoking rates have fallen more than 53 percent since then. This is real change. My friend, Illinois Senate President John Cullerton, led that fight to save lives. His storied career is one of working for good government and the safety of people. In January, he will be retiring, and I want to take this time to honor him.

John grew up in the village of Winfield in DuPage County. His family has deep roots in Illinois as one of the original settlers in Chicago in 1835. If you are wandering Chicago, you might come across Cullerton Street, which used to be 20th Street. It was named after John's great-grandfather's brother, Edward "Foxy" Cullerton. Edward, originally elected to Chicago city council in 1871, served one of the longest tenures as a Chicago alderman in the city's history. The Cullertons have been a staple of Illinois politics ever since.

Though it may seem like the Cullerton family is just filled with politicians, John's father and paternal grandfather were electricians. In fact, most of his immediate family was not political. John's role model was his maternal grandfather, Tom Tyrell, a real-estate lawyer in Chicago. At 12 years old, John wanted to be a lawyer because of him. His grandfather would give legal lessons at the dinner table. He would cut cherry pie and explain how corporations have shares.

John went to Loyola University Chicago and earned a bachelor's degree in political science. He stayed at Loyola to study law. John also served in the Illinois National Guard from 1970 to 1976. In law school, John experienced firsthand how litigation can bring change. As president of the Loyola University Chicago Student Bar Association, he saw his fellow students draft a complaint against the school for not providing adequate facilities for the law school. The students hired a lawyer and actually negotiated a deal without filing a lawsuit. A few years after John and his classmates graduated, a brand-new law school was built at the corner of Pearson and State in Chicago, which still stands today.

John's first job was working as a Chicago assistant public defender. For 5 years, he was on the frontlines of law defending people. In 1976, John earned his first political experience by being elected to be a delegate to the Democratic National Convention. Though John's immediate family was not very political, his cousin Parky Cullerton was Cook County tax assessor at the time. Parky's influence convinced him that he could run for the Illinois House of Representatives, and he won in 1978.

In 1988, John joined Fagel Haber, which later became Thompson Coburn Fagel Haber, where he still is a partner today. In 1990, John was appointed to fill then-State Senator Dawn Clark Netsch's seat. John won the seat on his own right in 1992, representing the Chicago Cubs' neighborhood of Wrigleyville, but he remained a loyal White Sox fan.

John thrived in the Senate. Between 2003 and 2006, he sponsored more bills and had more bills signed by the Governor than any other legislator. John dedicated himself to things like traffic safety, gun control, reforming the criminal justice system, and tobacco regulation. John would work with anyone for a greater good. He always made it a point of going out to dinner not just with Democratic State senators but with Republican ones too.

In 2008, the senate Democratic caucus chose John to be senate president. Immediately, John prioritized an infrastructure bill that had not passed in 10 years at the time. John has steered the senate through many tough times. He can proudly say that, during his time, Illinois passed two capital funding bills, marriage equality, an abolishment of the death penalty, school funding reform, and immigration reform.

John has encouraged bipartisanship and cooperation through all of it.

For 41 years, John has served with a sense of justice, friendship, and even comedy. He regularly performed at an annual event at the legendary Second City Chicago Theater. His impersonation of then-Mayor Richard J. Daley earned him the crown of Mr. Wonderful from the Conference of Women Legislators in 1979.

John retiring from the senate will allow him to spend more time with his wife Pam and his kids Maggie, Garritt, Carroll, John III, and Josephine, and his three grandchildren. I am privileged to call him a friend and look forward to all the new things he will take on in the future.

(At the request of Mr. SCHUMER, the following statement was ordered to be printed in the RECORD.)

● Ms. HARRIS. Madam President, I was absent but had I been present, I would have voted no on rollcall vote No. 383 the confirmation of Executive Calendar No. 479, Richard Ernest Myers II, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

Madam President, I was absent but had I been present, I would have voted no on rollcall vote No. 384, the confirmation of Executive Calendar No. 489, Sherri A. Lydon, of South Carolina, to be United States District Judge for the District of South Carolina.

Madam President, I was absent but had I been present I would have voted no on rollcall vote No. 386, the motion to invoke cloture on Executive Calendar No. 533, Patrick J. Bumatay, of California, to be United States Circuit Judge for the Ninth Circuit.

#### THE OVER-THE-COUNTER MONOGRAPH SAFETY, INNOVATION, AND REFORM ACT

Mr. CASEY. Madam President, today, the Senate passed S. 2740, the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019, which will completely overhaul and improve how the Food and Drug Administration—FDA—regulates over-the-counter—OTC—or nonprescription, drugs. These medicines are used by Americans every day, but our regulatory system has been stuck in the 1970s and has not kept pace with innovation or the need to ensure appropriate consumer protections. Senator JOHNNY ISAKSON and I have been working on this legislation since 2016.

This legislation creates a modern regulatory system for OTC drugs, providing the FDA with new resources to be able to review changes to existing OTC drugs and allow the marketing of new OTC drugs. FDA will have the authority to take swift action to protect the American public if a serious problem arises and to make changes to how OTC drugs are allowed to be sold if the science indicates that the steps are necessary to ensure that these products are used safely.

The Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019 establishes a streamlined administrative process which allows the FDA to modify a drug's safety labeling to address new health risks. The act is intended to modernize and accelerate regulatory procedures applicable to OTC drugs and will also allow for increased innovation. However, patient safety and manufacturer accountability are of equal importance. As such, nothing in this act is intended to change, diminish, or prohibit a manufacturer from performing any duty or complying with any requirement to warn consumers that exists under State or Federal law or to prevent any labeling changes pursuant to any other applicable provision of the Federal Food, Drug, and Cosmetic Act or FDA regulation. It is imperative that consumers have accurate information regarding the safety of over-the-counter drugs, and this bill is intended to improve that process while maintaining the existing rights of consumers to access the courts and hold manufacturers accountable when harmed.

This legislation has bipartisan support and also broad support from key stakeholders in public health, healthcare, and industry. I am deeply grateful for the work of my colleagues, notably Senator JOHNNY ISAKSON—the bill's sponsor; and the chairman and ranking Member of the Committee on Health, Education, Labor, and Pensions, Senator LAMAR ALEXANDER and Senator PATTY MURRAY, and their staffs for their continued support for this important effort. As a result of our work, American consumers will be able to have greater confidence in their over-the-counter drugs and will benefit from new innovation in the years to come.

Mrs. MURRAY. Mr. President, I thank Senator CASEY for his leadership on this important issue and agree wholeheartedly with his statement on S. 2740, the Over-the-Counter Monograph Safety, Innovation, and Reform Act of 2019.

Mr. BURR. Madam President, I want to take a few moments to explain why I am opposed to the OTC reform legislation offered by Senator ISAKSON. Senator ISAKSON and I worked together on many pieces of FDA legislation, and I have no doubt that he worked tirelessly to draft this bill in the best interest of patients. I will miss working closely with my colleague from Georgia to improve the lives of the millions of Americans touched by the U.S. Food and Drug Administration's work each day.

I want to be clear that I agree reforms are needed within the over-the-counter drug division at the FDA. I simply disagree on the way in which this legislation provides the resources to achieve these reforms because I do not believe it will result in my colleague's desired outcome. Here is why.

I reformed the FDA in 1997 with the passage of the FDA Modernization Act,

which I like to call FDAMA. One of the foundational principles of that legislation was to bring more certainty, predictability, and accountability to an agency that had lost its way, failing to bring new drugs and medical devices to market in the United States in a timely manner. Twenty-two years later, I am starting to see the implementation of major provisions of this law. Two decades after its passage, the FDA is finally putting key policies into practice that Congress demanded. Two decades is an unacceptable amount of time for Americans to wait.

One of the components of FDAMA was the reauthorization of certain user fee programs. Over these past two decades, we have seen FDA's user fee agreements increase with each 5-year cycle, bringing more resources into the agency to review drug, biologic and device applications.

When the drug industry first agreed to user fees in 1993, the fee to file a new drug application with the FDA was \$100,000. Today, that fee is \$2.1 million. To that end, FDA has struggled to uphold its end of the deal, falling behind in its commitment to hire the number of individuals the agency needs to actually review the applications that cost millions of dollars to file. The FDA continues to increase the amount of user fee dollars it requires to review applications, eroding the balance of congressional oversight provided by the appropriation of taxpayer dollars to the agency.

I would caution my colleagues that we are currently experiencing the effects of a center at the FDA that receives 100 percent of its funds from user fees, the Center for Tobacco Products. The CTP has had 10 years and received over \$5 billion in user fee resources. It has yet to finalize a single governing regulation for the products Congress tasked the CTP with regulating. Meanwhile, youth rates of vapor product use continue to increase and 2,000 Americans have fallen ill from the use of unregulated products. I have spoken many times on my concerns with the growth and development of FDA user fee programs because they have not resulted in the development of an FDA that keeps its promises. I promise my colleagues that the user fee program included in this bill will not be any different.

While the Senate has wrestled with solutions to high drug costs for the last 18 months, we are voting to approve a bill that increases the development costs for one of Americans' cheapest options for care. The over-the-counter user fee bill provides millions of dollars in new industry funds to reform the OTC system at FDA, and the agency is asking for tens of millions of dollars to deal with a backlog of OTC monographs or recipes to create over the counter medications.

User fee dollars are intended to go toward the review of applications, but I can assure my colleagues this is not the full story at the Agency today.

Last year alone, \$133 million in drug user fees went toward administrative expenses at the FDA, funds that may otherwise help to invest in new treatments or cures for Americans. This is very simple math, the more user fee programs we provide to the FDA, the less the FDA is accountable and responsive to Congress.

Through FDAMA and more recently in the 21st Century Cures Act and the 2017 FDA user fee bill, I worked to rebalance the focus of the FDA, to reaffirm its authorities to regulate the cutting edge science facing the agency, and to better leverage and strategically invest its existing resources. So I cannot support legislation that degrades the progress we have made at the FDA.

#### REMEMBERING RACHELLE BERGERON HAMMERLING

Mr. RUBIO. Madam President, today, I honor the life and work of Rachelle Bergeron Hammerling, a human rights lawyer who served as the acting Attorney General of Yap in Micronesia when she was murdered just a couple of months ago. Rachelle was killed in front of her home on October 14, 2019, as a direct result of her courageous fight against human trafficking, domestic violence, and sexual abuse. She was just 33 years old, but her legacy will live on through her family and the communities she made the ultimate sacrifice to serve.

Rachelle was born in Waukesha, WI, to parents Thomas and Tammy Bergeron in 1986. After growing up in Wisconsin, Rachelle went on to obtain a juris doctorate from the University of Florida College of Law in 2010, an experience her family says she loved.

When Rachelle graduated from law school, her passion to help others led her to volunteer with the International Justice Mission in India, where she represented women and children who had been trafficked. Rachelle spent her career prosecuting criminals involved with sex trafficking and worked tirelessly to protect the poor against violence. Rachelle's work took her around the United States, including New York and Washington, DC. She was a member of the New York State Bar and created the "Not-So-Super" campaign video as an effort to raise awareness regarding human trafficking during the 2014 Super Bowl. Her work took her to Beijing, South Africa, India, and finally the Pacific island of Yap.

Rachelle fought to give a voice to the voiceless and dedicated her life to empowering and uplifting others. About 4 years ago, Rachelle moved to Yap after accepting a job as that community's assistant attorney general. Since January 2019, she had been serving as the island's only prosecutor and as the acting attorney general, where her duties included being a part of a human trafficking task force. Rachelle was very active in the community she served and spent a lot of time in local schools

and community centers to warn against the dangers of sex trafficking.

Rachelle also met her husband, Simon Hammerling during her time in Yap. The two were married in 2018 and had planned to take in a young girl they had found sleeping on their doorstep. Rachelle passed just before the two were about to celebrate their 1-year wedding anniversary and shortly before she and her family were due to move back to the United States for a new job in Wyoming. Her passing is a tremendous loss to her family, to the community she fought to serve, and to all who knew her.

We remember Rachelle with gratitude for her life, and we honor her for her sacrifice. Scripture tells us that the righteous will rest from their labor, for their deeds will follow them. As she now rests from her tireless and courageous work on behalf of the most vulnerable among us, we know Rachelle's deeds will follow her and continue to inspire others to pursue justice as fiercely as she did.

#### TRIBUTE TO CAROLYN EDWARDS

Mr. BARRASSO. Madam President, together with Senator CARPER, I rise today to recognize Carolyn Edwards for her distinguished career and significant accomplishments at the Federal Highway Administration, FHWA.

After 46 years of exceptional Federal service, Carolyn is retiring from FHWA on January 3, 2020. She is a dedicated public servant recognized as an unparalleled national expert on Federal Highway Programs and the highway trust fund. Through her technical assistance to Congress and her policy advice to departmental and agency officials, Carolyn has provided an invaluable contribution to the programs that support our Nation's roads and bridges. She has helped to shape not only these critical highway programs, but also, as colleague and mentor, she has shaped and guided a generation of highway policy experts. Her work will have a lasting legacy for many years to come.

Carolyn's entire 46-year Federal career has been with the U.S. Department of Transportation, USDOT—44 of these with FHWA. To put Carolyn's remarkable public service longevity in perspective, FHWA was formed in 1966, only 7 years prior to her arrival. She joined FHWA in 1973 as an economist. Over the ensuing four and a half decades, she has served in a range of high-level analytical and leadership positions, including positions in FHWA's Office of Highway Policy Information and Office of Legislative Affairs and Policy Communications. She also worked in the Office of the Secretary's Office of the Assistant Secretary for Budget and Programs with a portfolio that covered FHWA programs.

Carolyn is currently a member of FHWA's Legislative Analysis Team, where she serves as the authoritative expert on a wide range of highway-related topics, including Federal highway

legislation, the highway trust fund, and the operations of the Federal-aid highway program. Throughout her successful and impressive career, she has been a "go-to reference" on these topics for both agency and departmental leaders and staff.

Among her many exemplary accomplishments, Carolyn has been in the development and implementation of every Federal surface transportation bill since the Transportation Equity Act for the 21st Century—TEA-21—was enacted in 1998. Additionally, she has also been a recipient of several prestigious honors and awards. Carolyn has been recognized with a Secretary's Team Award, two Secretarial Awards for Partnering for Excellence, and multiple FHWA Superior Achievement Awards, FHWA's highest honor award.

Carolyn exemplifies the highest standards of public service and embodies FHWA's spirit of professionalism and customer service. Over the years, the Senate Committee on Environment and Public Works, along with other congressional committees, Members of Congress, and their staff have relied on Carolyn's legislative and highway policy expertise, quick turnaround technical assistance responses, and wealth of information. Carolyn's colleagues at USDOT and FHWA have depended on her tireless efforts, her endless wealth of knowledge and willingness to share and transfer it. They will miss her indomitable spirit and her purple sweaters, purple pens, and love for everything purple to brighten their days.

Carolyn has helped shape highway policy discussions and implement new programs. Her contributions will continue to make a difference on USDOT, FHWA, and the surface transportation community. Her retirement from the Federal Government is a celebration of her dedication to the American people.

It is a great honor to recognize this exceptional public servant. Senator CARPER joins me in extending our appreciation and well wishes to Carolyn on her retirement.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO ANDY PRADELLA

• Mr. MANCHIN. Madam President, Gayle and I would like to extend our warmest congratulations and very best wishes to our very dear friend Andy Pradella on his 70th birthday. What I have always admired about Andy is his unparalleled work ethic and determination to learn and serve, and to inspire those around him. I can't tell him how much his and Joanie's friendship has meant to me and Gayle throughout the years. They are like family to us. Together, they are both a match made in "Almost Heaven."

While Andy wasn't born in West Virginia, he certainly is a West Virginian in his heart and soul. In West Virginia, if you are hungry, you will be fed. If

you are lost, someone will not only give you directions but will offer to drive you to your destination. I am so deeply proud of the people of my home State and the values that make us stand out from the rest of the Nation.

It is in that same spirit that I proudly recognize Andy Pradella as an honorary West Virginian. No one fits this title better. He is one of the most generous, kindest, selfless people I have had the privilege of calling my very dear friend. He has provided so much happiness and wisdom to the lives of those around him throughout the years, and it is my wish that the memory of this special day remains with him just as his guidance and influence will remain in all the lives he has touched. Again, it is with the greatest admiration that I send to him my best wishes on his special day.

Andy, please always remember that no matter where you are, you have a home here in "Almost Heaven."•

##### TRIBUTE TO MARY HULSMAN ALLGEIER

• Mr. PAUL. Madam President, Mary Hulsman Allgeier was selected as the #1 Citizen of Schnitzelburg, a historic neighborhood in Louisville, KY. Mary has been a lifelong community advocate and volunteer. She has given to and supported those in need as a leader in Holy Family Parish for many years. In addition, Mary is a role model for women in leadership and is instrumental in ensuring members of her community understand their civic rights and responsibilities. Mary has served her community faithfully from education to civic engagement and is an example for us to follow. I am proud to join the people of Schnitzelburg in honoring Mary Allegeier as their #1 Citizen.•

##### TRIBUTE TO COLONEL FRED JOHNSON

• Mr. PAUL. Madam President, Col. Fred Johnson, U.S. Army, Retired, was honored as Kentucky's 2019 Veteran of the Year. Since his retirement from the U.S. Army in 2014, Fred Johnson has immersed himself in community service in Louisville in both existing programs, such as YouthBuild and Restorative Justice Louisville, and through developing new, innovative ways to use the arts and storytelling to help connect veterans with the broader community. His Veteran's Writing Workshop series and the innovative Shakespeare with Veterans group that he cofounded in 2016 are helping veterans communicate their stories in creative and timeless ways. Colonel Johnson remains committed to our country as is evident by his decision to teach sixth grade Social studies class at Thomas Jefferson Middle School. I am proud to recognize Col. Fred Johnson as a remarkable symbol of the rich veteran heritage of Kentucky.•

## TRIBUTE TO KAREN WEAVER

• Mr. PAUL. Madam President, Karen Weaver, a Kentucky native and a veteran of the U.S. Air Force, has been recognized as the Kentucky Female Veteran of the Year 2019. After serving on Active Duty and in the Air Force Reserve, Karen taught science at Leestown Middle School in Lexington, KY, where she began immersing herself in volunteer work for veterans. She has worked with Military Missions, an organization that sent care packages to over 8,500 deployed U.S. men and women last year. One of her current passions is Lady Veterans Connect, a nonprofit with a real heart for female veterans, particularly those who are homeless. Karen Weaver has been an incredible role model to the children of her classrooms and to the entire Commonwealth. I am honored to recognize Karen in her service to our country and our State.●

RECOGNIZING GRANNY  
CANTRELL'S RESTAURANT

• Mr. RUBIO. Madam President, as the chairman of the Senate Committee on Small Business and Entrepreneurship, each week I am privileged to honor an American small business for its dedication to dignified work and its surrounding community. This week, it is my honor to recognize Granny Cantrell's Restaurant of Panama City, FL, for its achievements.

Founded in 2002 by Doug Crosby and his family, Granny Cantrell's is well known for its delicious southern comfort food and catering. Based on recipes from friends, neighbors, family, and local churches, Granny Cantrell's food consists of familiar items such as fried chicken, pot roast, and macaroni and cheese. Since opening more than 17 years ago, Granny Cantrell's has experienced success and continued growth. Their menu has expanded beyond comfort food to offer a variety of daily specials and health-conscious options. Today, they are an important part of the Panama City community, attracting and retaining customers who enjoy their food at the restaurant, as well as at catered events.

Granny Cantrell's dedication to the greater Panama City community is unmatched. In the days following the landfall of Hurricane Michael in 2018, Granny Cantrell's worked tirelessly with local authorities to ensure that the city's employees were fed. Additionally, with the help of likeminded community partners, Granny Cantrell's restaurant was able to provide and hand-deliver more than 500 prepacked Thanksgiving meals and 400 cupcakes to those in need after the hurricane. In recent years, Doug and the Granny Cantrell's team have also opened the restaurant's doors as a drop-off location for Coats for Kids, a Bay County program that collects and distributes gently used coats to prepare local children for the winter.

Their dedication to the Florida community, their fantastic homemade dishes, and exemplary customer service has certainly not gone unnoticed. For 9 years running, Granny Cantrell's has been awarded Panama City News Herald's Best of the Bay Award, highlighting its customers' loyalty and integral place in the local economy. Furthermore, Granny Cantrell's has been awarded the Reader's Choice Award by Panama City Living for several years in a row to commemorate their outstanding food and customer service.

Small businesses play an important role in supporting and uplifting their communities. Granny Cantrell's is a prime example of the bonds that small businesses can create when such an integral role is bolstered. I am proud to recognize this Florida business for its reflection of America's unique entrepreneurial spirit and its dedication to the common good of its community. Congratulations to the entire Granny Cantrell's team. I look forward to watching your continued success.●

MESSAGES FROM THE HOUSE

At 10:36 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 256. An act to amend the Native American Programs Act of 1974 to provide flexibility and reauthorization to ensure the survival and continuing vitality of Native American languages.

S. 737. An act to direct the National Science Foundation to support STEM education research focused on early childhood.

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

H.R. 2051. An act to provide for Federal coordination of activities supporting sustainable chemistry, and for other purposes.

H.R. 3318. An act to require the Transportation Security Administration to establish a task force to conduct an analysis of emerging and potential future threats to transportation security, and for other purposes.

H.R. 3469. An act to direct the Transportation Security Administration to carry out covert testing and risk mitigation improvement of aviation security operations, and for other purposes.

H.R. 3669. An act to require the Secretary of Homeland Security to conduct a collective response to a terrorism exercise that includes the management of cascading effects on critical infrastructure during times of extreme cold weather, and for other purposes.

H.R. 4355. An act to direct the Director of the National Science Foundation to support research on the outputs that may be generated by generative adversarial networks, otherwise known as deepfakes, and other comparable techniques that may be developed in the future, and for other purposes.

H.R. 4372. An act to direct Federal science agencies and the Office of Science and Technology Policy to undertake activities to improve the quality of undergraduate STEM education and enhance the research capacity at the Nation's HBCUs, TCUs, and MSIs, and for other purposes.

H.R. 4373. An act to provide for a coordinated Federal research initiative to ensure

continued United States leadership in engineering biology.

H.R. 4402. An act to require the Secretary of Homeland Security to conduct an inland waters threat analysis, and for other purposes.

H.R. 4566. An act to accelerate the income tax benefits for charitable cash contributions for the relief of the families of victims of the mass shooting in Virginia Beach, Virginia, on May 31, 2019.

H.R. 4713. An act to amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, and for other purposes.

H.R. 4727. An act to amend the Homeland Security Act of 2002 to establish a mentor-protégé program, and for other purposes.

H.R. 4739. An act to amend the Homeland Security Act of 2002 to protect U.S. Customs and Border Protection officers, agents, other personnel, and canines against potential synthetic opioid exposure, and for other purposes.

H.R. 4761. An act to ensure U.S. Customs and Border Protection officers, agents, and other personnel have adequate synthetic opioid detection equipment, that the Department of Homeland Security has a process to update synthetic opioid detection capability, and for other purposes.

The message further announced that pursuant to 10 U.S.C. 9455(a), and the order of the House of January 3, 2019, the Speaker appoints the following Member on the part of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Ms. Speier of California.

At 5:40 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5363. An act to reauthorize mandatory funding programs for historically Black colleges and universities and other minority-serving institutions, for other purposes.

MEASURES REFERRED

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

H.R. 2051. An act to provide for Federal coordination of activities supporting sustainable chemistry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3318. An act to require the Transportation Security Administration to establish a task force to conduct an analysis of emerging and potential future threats to transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3469. An act to direct the Transportation Security Administration to carry out covert testing and risk mitigation improvement of aviation security operations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3669. An act to require the Secretary of Homeland Security to conduct a collective response to a terrorism exercise that includes the management of cascading effects on critical infrastructure during times of extreme cold weather, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4355. An act to direct the Director of the National Science Foundation to support

research on the outputs that may be generated by generative adversarial networks, otherwise known as deepfakes, and other comparable techniques that may be developed in the future, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4372. An act to direct Federal science agencies and the Office of Science and Technology Policy to undertake activities to improve the quality of undergraduate STEM education and enhance the research capacity at the Nation's HBCUs, TCUs, and MSIs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 4373. An act to provide for a coordinated Federal research initiative to ensure continued United States leadership in engineering biology; to the Committee on Commerce, Science, and Transportation.

H.R. 4402. An act to require the Secretary of Homeland Security to conduct an inland waters threat analysis, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4713. An act to amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4727. An act to amend the Homeland Security Act of 2002 to establish a mentor-protégé program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4739. An act to amend the Homeland Security Act of 2002 to protect U.S. Customs and Border Protection officers, agents, other personnel, and canines against potential synthetic opioid exposure, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4761. An act to ensure U.S. Customs and Border Protection officers, agents, and other personnel have adequate synthetic opioid detection equipment, that the Department of Homeland Security has a process to update synthetic opioid detection capability, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3009. A bill to provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations.

#### EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-3450. A communication from the Chief of the Planning and Regulatory Affairs Branch, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents" (RIN0584-AE57) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3451. A communication from the Director of the Regulatory Management Division,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Plan Approval; Indiana; Indiana RACT SIP and Negative Declaration for the Oil and Natural Gas Industry Control Techniques Guidelines" (FRL No. 10003-02-Region 5) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Environment and Public Works.

EC-3452. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Plan Approval; Tennessee; Knox County Miscellaneous Revisions" (FRL No. 10002-97-Region 4) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Environment and Public Works.

EC-3453. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Regulatory Definition of Volatile Organic Compounds" (FRL No. 10002-99-Region 3) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Environment and Public Works.

EC-3454. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Approval of the Indiana 1997 Ozone Second Full Maintenance Plans" (FRL No. 10002-93-Region 5) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Environment and Public Works.

EC-3455. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "North Dakota Department of Environmental Quality: Incorporation by Reference of State Hazardous Waste Management Program" (FRL No. 10001-40-Region 8) received in the Office of the President of the Senate on December 9, 2019; to the Committee on Environment and Public Works.

EC-3456. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treasury Decision (TD): Base Erosion and Anti-Abuse Tax" (RIN1545-BO56) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Finance.

EC-3457. A communication from the Director, Office of Regulations and Reports Clearance, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Extension of Expiration Dates of Five Body Systems Listings" (RIN0960-AI45) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Finance.

EC-3458. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "2019 Required Amendments List for Qualified Retirement Plans and section 403(b) Retirement Plans" (Notice 2019-64) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Finance.

EC-3459. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background state-

ments of international agreements, other than treaties (List 2019-0115 - 2019-0117); to the Committee on Foreign Relations.

EC-3460. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to section 36(c) of the Arms Export Control Act, the certification of a proposed license for the export of firearms abroad controlled under Category I of the U.S. Munitions Lists of automatic rifles to Qatar for end use by the Ministry of the Interior in the amount of \$1,000,000 or more (Transmittal No. DDTC 18-083); to the Committee on Foreign Relations.

EC-3461. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to section 36(c) of the Arms Export Control Act, the certification of a proposed license for the export of firearms abroad controlled under Category I of the U.S. Munitions Lists of 5.56mm automatic rifles to Kuwait for end use by the Ministry of the Interior in the amount of \$1,000,000 or more (Transmittal No. DDTC 19-070); to the Committee on Foreign Relations.

EC-3462. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to section 36(c) of the Arms Export Control Act, the certification of a proposed license for the export of defense articles, including technical data and defense services, to Australia in support of the F135 propulsion system for end use in the F-35 Lightning II Joint Strike Fighter aircraft in the amount of \$100,000,000 or more (Transmittal No. DDTC 19-056); to the Committee on Foreign Relations.

EC-3463. A communication from the Chairman of the Board of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Inspector General's Semi-annual Report to Congress for the period from April 1, 2019, through September 30, 2019; to the Committee on Homeland Security and Governmental Affairs.

EC-3464. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Department of Agriculture's fiscal year 2019 Agency Financial Report; to the Committee on Homeland Security and Governmental Affairs.

EC-3465. A communication from the Acting Chief Financial Officer and Associate Administrator for Performance Management, Small Business Administration, transmitting, pursuant to law, the Administration's fiscal year 2019 Agency Financial Report; to the Committee on Homeland Security and Governmental Affairs.

EC-3466. A communication from the Director, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Veterans Healing Veterans Medical Access and Scholarship" (RIN2900-AQ54) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Veterans' Affairs.

EC-3467. A communication from the Deputy Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Pacific Halibut Fisheries; Revisions To Catch Sharing Plan and Domestic Management Measures in Alaska" (RIN0648-BH94) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3468. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Several Groundfish Species in

the Bering Sea and Aleutian Islands Management Area” (RIN0648-XY55) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3469. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area” (RIN0648-XY16) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3470. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska” (RIN0648-XX25) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3471. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries” (RIN0648-XT27) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3472. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019-2020 Commercial Quota Reduction for King Mackerel Run-Around Gillnet Fishery” (RIN0648-XS008) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3473. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; 2020 Atlantic Shark Commercial Fishing Year” (RIN0648-XP004) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3474. A communication from the Acting Director, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2019 Management Area 1A Sub-Annual Catch Limit Harvested” (RIN0648-XX033) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3475. A communication from the Deputy Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fisheries of the Northeastern United States; Jonah Crab Fishery; Interstate Fishery Management Plan for Jonah Crab” (RIN0648-BF43) received during adjournment of the Senate in the Office of the President of the Senate on

December 6, 2019; to the Committee on Commerce, Science, and Transportation.

EC-3476. A communication from the Deputy Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Atlantic Highly Migratory Species; 2020 Atlantic Shark Commercial Fishing Year” (RIN0648-XT004) received during adjournment of the Senate in the Office of the President of the Senate on December 6, 2019; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WICKER, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1342. A bill to require the Under Secretary for Oceans and Atmosphere to update periodically the environmental sensitivity index products of the National Oceanic and Atmospheric Administration for each coastal area of the Great Lakes, and for other purposes (Rept. No. 116-170).

## EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. CRAPO for the Committee on Banking, Housing, and Urban Affairs.

\*Peter J. Coniglio, of Virginia, to be Inspector General, Export-Import Bank.

\*David Carey Woll, Jr., of Connecticut, to be an Assistant Secretary of Housing and Urban Development.

\*Mitchell A. Silk, of New York, to be an Assistant Secretary of the Treasury.

\*John Bobbitt, of Texas, to be an Assistant of Housing and Urban Development.

\*Brian D. Montgomery, of Texas, to be Deputy Secretary of Housing and Urban Development.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee’s commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CRUZ (for himself, Mr. CRAPO, Mr. KENNEDY, Mr. TILLIS, Mr. INHOFE, Mr. LEE, Mrs. HYDE-SMITH, Mr. CORNYN, Mr. SASSE, and Mr. BRAUN):

S. 3003. A bill to provide requirements for the appropriate Federal banking agencies when requesting or ordering a depository institution to terminate a specific customer account, to provide for additional requirements related to subpoenas issued under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MARKEY (for himself, Mrs. SHAHEEN, Mr. MERKLEY, Ms. BALDWIN, Ms. KLOBUCHAR, and Mr. CASEY):

S. 3004. A bill to protect human rights and enhance opportunities for LGBTI people around the world, and for other purposes; to the Committee on Foreign Relations.

By Mr. ISAKSON (for himself and Mr. COONS):

S. 3005. A bill to require the Secretary of Transportation to promulgate standards and regulations requiring all new commercial motor vehicles to be equipped with technology to limit maximum operating speed, to require existing speed-limiting technologies already installed in commercial motor vehicles manufactured after 1992 to be used while in operation, and to require that the maximum safe operating speed of commercial motor vehicles shall not exceed 65 miles per hour, or 70 miles per hour with certain safety technologies; to the Committee on Commerce, Science, and Transportation.

By Ms. MURKOWSKI (for herself, Mr. JONES, Mr. KING, and Mr. GARDNER):

S. 3006. A bill to amend the Public Health Service Act to establish a program to improve the identification, assessment, and treatment of patients in the emergency department who are at risk or suicide, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BLACKBURN (for herself and Ms. CORTEZ MASTO):

S. 3007. A bill to amend title 18, United States Code, to require a provider of a report to the CyberTipline related to online sexual exploitation of children to preserve the contents of such report for 180 days, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Ms. DUCKWORTH):

S. 3008. A bill to amend the Small Business Act to clarify the treatment of certain surviving spouses under the definition of small business concern owned and controlled by service-disabled veterans; to the Committee on Small Business and Entrepreneurship.

By Mr. LANKFORD (for himself, Ms. HASSAN, Mr. ENZI, Mr. JOHNSON, Mr. KING, and Mr. KAINE):

S. 3009. A bill to provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations; read the first time.

By Mr. PORTMAN (for himself and Mr. CASEY):

S. 3010. A bill to amend title XIX of the Social Security Act to enable greater participation by seniors and Medicare beneficiaries in State Medicaid programs for working people with disabilities; to the Committee on Finance.

By Mrs. MURRAY:

S. 3011. A bill to authorize demonstration projects to improve educational and housing outcomes for children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TOOMEY:

S. 3012. A bill to amend the Private Security Officer Employment Authorization Act of 2004 to establish a national criminal history background check system and criminal history review program for private security officers; to the Committee on the Judiciary.

By Mr. TOOMEY (for himself and Mr. CRAPO):

S. 3013. A bill to amend title XVIII of the Social Security Act to allow for the offering of additional prescription drug plans under Medicare part D; to the Committee on Finance.

By Mr. MARKEY:

S. 3014. A bill to require congressional approval for civilian nuclear cooperation under certain circumstances, and for other purposes; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MARKEY (for himself, Mr. CARPER, Mr. REED, Mr. WYDEN, Mr. CASEY, Ms. HASSAN, Ms. SMITH, Mr. MERKLEY, Mr. BOOKER, Mr. DURBIN, Ms. KLOBUCHAR, Mr. VAN HOLLEN, Mrs. SHAHEEN, Mr. BLUMENTHAL, and Mr. WHITEHOUSE):

S. Res. 449. A resolution expressing the sense of the Senate that the Nation, States, cities, Tribal nations, and businesses, institutions of higher education, and other institutions in the United States should work toward achieving the goals of the Paris Agreement; to the Committee on Foreign Relations.

By Mr. COONS (for himself and Mr. TILLIS):

S. Res. 450. A resolution recognizing the 71st anniversary of the Universal Declaration of Human Rights and the celebration of "Human Rights Day"; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Ms. STABENOW, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. CANTWELL, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mrs. GILLIBRAND, Ms. WARREN, Mrs. FISCHER, Mrs. CAPITO, Ms. ERNST, Ms. DUCKWORTH, Ms. HASSAN, Ms. HARRIS, Ms. SMITH, Mrs. HYDE-SMITH, Mrs. BLACKBURN, Ms. SINEMA, Ms. MCSALLY, Ms. ROSEN, Ms. HIRONO, Ms. CORTEZ MASTO, Ms. BALDWIN, and Ms. MURKOWSKI):

S. Res. 451. A resolution congratulating astronauts Dr. Jessica U. Meir and Christina H. Koch for the historic accomplishment of completing the first all-female spacewalk; considered and agreed to.

By Mr. ISAKSON (for himself, Mr. COONS, Mr. RISCH, Mr. MENENDEZ, Mr. SULLIVAN, and Mr. BOOKER):

S. Res. 452. A resolution commemorating and supporting the goals of World AIDS Day; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 109

At the request of Mr. WICKER, the name of the Senator from Florida (Mr. SCOTT) was added as a cosponsor of S. 109, a bill to prohibit taxpayer funded abortions.

S. 133

At the request of Ms. MURKOWSKI, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 133, a bill to award a Congressional Gold Medal, collectively, to the United States merchant mariners of World War II, in recognition of their dedicated and vital service during World War II.

S. 182

At the request of Mr. KENNEDY, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 182, a bill to prohibit discrimination against the unborn on the basis of sex, and for other purposes.

S. 251

At the request of Ms. CORTEZ MASTO, the name of the Senator from Tennessee (Mrs. BLACKBURN) was added as a cosponsor of S. 251, a bill to establish

the Interdiction for the Protection of Child Victims of Exploitation and Human Trafficking Program to train law enforcement officers to identify and assist victims of child exploitation and human trafficking.

S. 500

At the request of Mr. PORTMAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 500, a bill to amend title 54, United States Code, to establish, fund, and provide for the use of amounts in a National Park Service Legacy Restoration Fund to address the maintenance backlog of the National Park Service, and for other purposes.

S. 505

At the request of Ms. DUCKWORTH, the names of the Senator from Ohio (Mr. BROWN), the Senator from Vermont (Mr. SANDERS) and the Senator from Connecticut (Mr. MURPHY) were added as cosponsors of S. 505, a bill to ensure due process protections of individuals in the United States against unlawful detention based solely on a protected characteristic.

S. 510

At the request of Mr. MARKEY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 510, a bill to amend the Communications Act of 1934 to provide for certain requirements relating to charges for internet, television, and voice services, and for other purposes.

S. 511

At the request of Mrs. GILLIBRAND, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 511, a bill to promote and protect from discrimination living organ donors.

S. 580

At the request of Ms. ERNST, the name of the Senator from Mississippi (Mrs. HYDE-SMITH) was added as a cosponsor of S. 580, a bill to amend the Act of August 25, 1958, commonly known as the "Former Presidents Act of 1958", with respect to the monetary allowance payable to a former President, and for other purposes.

S. 651

At the request of Mr. CASEY, the name of the Senator from Arizona (Ms. MCSALLY) was added as a cosponsor of S. 651, a bill to amend the Internal Revenue Code of 1986 to increase the age requirement with respect to eligibility for qualified ABLE programs.

S. 879

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 879, a bill to provide a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements, and for other purposes.

S. 995

At the request of Ms. COLLINS, the names of the Senator from Rhode Island (Mr. REED) and the Senator from

Arizona (Ms. SINEMA) were added as cosponsors of S. 995, a bill to amend title XXIX of the Public Health Service Act to reauthorize the program under such title relating to lifespan respite care.

S. 1130

At the request of Mr. CASEY, the name of the Senator from Minnesota (Ms. SMITH) was added as a cosponsor of S. 1130, a bill to amend the Public Health Service Act to improve the health of children and help better understand and enhance awareness about unexpected sudden death in early life.

S. 1254

At the request of Mr. YOUNG, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1254, a bill to require the Secretary of Transportation to review and report on certain laws, safety measures, and technologies relating to the illegal passing of school buses, and for other purposes.

S. 1563

At the request of Mr. BURR, the name of the Senator from Alabama (Mr. JONES) was added as a cosponsor of S. 1563, a bill to amend the Public Health Service Act with respect to the Agency for Toxic Substances and Disease Registry's review and publication of illness and conditions relating to veterans stationed at Camp Lejeune, North Carolina, and their family members, and for other purposes.

S. 1820

At the request of Mrs. GILLIBRAND, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1820, a bill to improve the integrity and safety of horseracing by requiring a uniform anti-doping and medication control program to be developed and enforced by an independent Horseracing Anti-Doping and Medication Control Authority.

S. 1863

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1863, a bill to require the Secretary of the Interior to conduct a special resource study of the sites associated with the life and legacy of the noted American philanthropist and business executive Julius Rosenwald, with a special focus on the Rosenwald Schools, and for other purposes.

S. 1908

At the request of Mrs. GILLIBRAND, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1908, a bill to amend the Richard B. Russell National School Lunch Act to improve the efficiency of summer meals.

S. 1989

At the request of Mr. SCOTT of South Carolina, the name of the Senator from Louisiana (Mr. CASSIDY) was added as a cosponsor of S. 1989, a bill to amend title XVIII of the Social Security Act to provide for transparency of Medicare secondary payer reporting information, and for other purposes.

S. 2001

At the request of Ms. STABENOW, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Maryland (Mr. VAN HOLLEN) were added as cosponsors of S. 2001, a bill to award a Congressional Gold Medal to Willie O'Ree, in recognition of his extraordinary contributions and commitment to hockey, inclusion, and recreational opportunity.

S. 2179

At the request of Mr. CARDIN, the name of the Senator from Virginia (Mr. KAINE) was added as a cosponsor of S. 2179, a bill to amend the Older Americans Act of 1965 to provide social service agencies with the resources to provide services to meet the urgent needs of Holocaust survivors to age in place with dignity, comfort, security, and quality of life.

S. 2365

At the request of Mr. UDALL, the name of the Senator from Arizona (Ms. MCSALLY) was added as a cosponsor of S. 2365, a bill to amend the Indian Health Care Improvement Act to authorize urban Indian organizations to enter into arrangements for the sharing of medical services and facilities, and for other purposes.

S. 2434

At the request of Mr. PETERS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2434, a bill to establish the National Criminal Justice Commission.

S. 2539

At the request of Mr. RUBIO, the name of the Senator from Arizona (Ms. MCSALLY) was added as a cosponsor of S. 2539, a bill to modify and reauthorize the Tibetan Policy Act of 2002, and for other purposes.

S. 2546

At the request of Ms. MURKOWSKI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2546, a bill to amend the Employee Retirement Income Security Act of 1974 to require a group health plan or health insurance coverage offered in connection with such a plan to provide an exceptions process for any medication step therapy protocol, and for other purposes.

S. 2561

At the request of Mr. BLUMENTHAL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2561, a bill to amend the Lacey Act Amendments of 1981 to clarify provisions enacted by the Captive Wildlife Safety Act, to further the conservation of certain wildlife species, and for other purposes.

S. 2570

At the request of Ms. SINEMA, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2570, a bill to award a Congressional Gold Medal to Greg LeMond in recognition of his service to the United States as an athlete, activist, role model, and community leader.

S. 2661

At the request of Mr. GARDNER, the names of the Senator from Arizona (Ms. SINEMA), the Senator from Indiana (Mr. YOUNG) and the Senator from Nebraska (Mrs. FISCHER) were added as cosponsors of S. 2661, a bill to amend the Communications Act of 1934 to designate 9-8-8 as the universal telephone number for the purpose of the national suicide prevention and mental health crisis hotline system operating through the National Suicide Prevention Lifeline and through the Veterans Crisis Line, and for other purposes.

S. 2683

At the request of Mr. BURR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Minnesota (Ms. SMITH) were added as cosponsors of S. 2683, a bill to establish a task force to assist States in implementing hiring requirements for child care staff members to improve child safety.

S. 2740

At the request of Mr. CASEY, the name of the Senator from Arizona (Ms. SINEMA) was added as a cosponsor of S. 2740, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the regulatory framework with respect to certain nonprescription drugs that are marketed without an approved new drug application, and for other purposes.

S. 2754

At the request of Mr. KENNEDY, the names of the Senator from Missouri (Mr. BLUNT) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2754, a bill to create jobs and drive innovation and economic growth in the United States by supporting and promoting the manufacture of next-generation technologies, including refrigerants, solvents, fire suppressants, foam blowing agents, aerosols, and propellants.

S. 2772

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2772, a bill to amend title XVIII of the Social Security Act to provide for treatment of clinical psychologists as physicians for purposes of furnishing clinical psychologist services under the Medicare program.

S. 2791

At the request of Mr. RUBIO, the name of the Senator from Tennessee (Mrs. BLACKBURN) was added as a cosponsor of S. 2791, a bill to amend title 5, United States Code, to provide that sums in the Thrift Savings Fund may not be invested in securities that are listed on certain foreign exchanges, and for other purposes.

S. 2794

At the request of Mr. CRAPO, the name of the Senator from South Dakota (Mr. ROUNDS) was added as a cosponsor of S. 2794, a bill to provide for the creation of the Missing Armed Forces Personnel Records Collection at the National Archives, to require the

expeditious public transmission to the Archivist and public disclosure of Missing Armed Forces Personnel records, and for other purposes.

S. 2802

At the request of Ms. CANTWELL, the names of the Senator from Alaska (Mr. SULLIVAN), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Hawaii (Mr. SCHATZ) were added as cosponsors of S. 2802, a bill to amend the Marine Mammal Protection Act of 1972 to reauthorize and modify the John H. Prescott Marine Mammal Rescue and Response Grant Program, and for other purposes.

S. 2803

At the request of Mr. BROWN, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 2803, a bill to provide Federal housing assistance on behalf of youths who are aging out of foster care, and for other purposes.

S. 2826

At the request of Mr. YOUNG, the name of the Senator from Colorado (Mr. GARDNER) was added as a cosponsor of S. 2826, a bill to require a global economic security strategy, and for other purposes.

S. 2836

At the request of Mrs. MURRAY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2836, a bill to prohibit the Secretary of Health and Human Services from taking any action to implement, enforce, or otherwise give effect to the final rule, entitled "Protecting Statutory Conscience Rights in Health Care; Delegations of Authority".

S. 2871

At the request of Mr. UDALL, the name of the Senator from Nevada (Ms. CORTEZ MASTO) was added as a cosponsor of S. 2871, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments under the Indian Health Service Loan Repayment Program and certain amounts received under the Indian Health Professions Scholarships Program.

S. 2881

At the request of Mr. WICKER, the name of the Senator from Nebraska (Mrs. FISCHER) was added as a cosponsor of S. 2881, a bill to require the Federal Communications Commission to make not less than 280 megahertz of spectrum available for terrestrial use, and for other purposes.

S. 2898

At the request of Mr. INHOFE, the name of the Senator from Nebraska (Mrs. FISCHER) was added as a cosponsor of S. 2898, a bill to amend title 5, United States Code, to provide for a full annuity supplement for certain air traffic controllers.

S. 2944

At the request of Ms. MCSALLY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2944, a bill to amend title 10, United States Code, to include digital

breast tomosynthesis as a primary and preventative health care service under the military health system and the TRICARE program.

S. 2953

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Ms. DUCKWORTH) was added as a cosponsor of S. 2953, a bill to provide congressional oversight of United States talks with Taliban officials and Afghanistan's comprehensive peace process.

S. 2984

At the request of Mr. THUNE, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S. 2984, a bill to amend the Internal Revenue Code of 1986 to allow for certain residential rental property to be depreciated over a 30-year period.

S. RES. 142

At the request of Mr. MARKEY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 142, a resolution condemning the Government of the Philippines for its continued detention of Senator Leila De Lima, calling for her immediate release, and for other purposes.

S. RES. 152

At the request of Mr. MENENDEZ, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 152, a resolution expressing the importance of the United States alliance with the Republic of Korea and the contributions of Korean Americans in the United States.

S. RES. 215

At the request of Mr. BRAUN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. Res. 215, a resolution calling for greater religious and political freedoms in Cuba, and for other purposes.

S. RES. 260

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. Res. 260, a resolution recognizing the importance of sustained United States leadership to accelerating global progress against maternal and child malnutrition and supporting the commitment of the United States Agency for International Development to global nutrition through the Multi-Sectoral Nutrition Strategy.

S. RES. 318

At the request of Mr. RISCH, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. Res. 318, a resolution to support the Global Fund to fight AIDS, Tuberculosis and Malaria, and the Sixth Replenishment.

S. RES. 371

At the request of Mr. ISAKSON, the name of the Senator from Texas (Mr. CRUZ) was added as a cosponsor of S. Res. 371, a resolution reaffirming the support of the United States for the people of the Republic of South Sudan and calling on all parties to uphold their commitments to peace and dialogue as outlined in the 2018 revitalized peace agreement.

S. RES. 385

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 385, a resolution celebrating the 30th anniversary of the fall of the Berlin Wall, the reunification of both Germany and Europe, and the spread of democracy around the world.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. LANKFORD (for himself, Ms. HASSAN, Mr. ENZI, Mr. JOHNSON, Mr. KING, and Mr. KAINE):

S. 3009. A bill to provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations; read the first time.

Mr. LANKFORD. Mr. President, 2019 is almost over, but there is a lot that still has to be done on this floor.

A lot of bills have moved through this year. In fact, we have had 78 bills that have been signed into law so far this year.

This year, as we worked through the process, we have had quite a few judges and nominations that the Senate has actually worked through. In fact, by the end of this week, we will have confirmed our 50th circuit court judge.

There is a lot of engagement, but with a week and a half left on this floor, we still have issues like the United States-Mexico-Canada Trade Agreement. That agreement, which is called the USMCA, has been sitting over in the House for 14 months. It looks like the House is now going to take it up this week or next week after 14 months of its being there. We are pleased to see some movement there. We have to see the final implementing language on that.

We hope to move the national defense authorization bill. That has been waiting for months and months under the capable leadership of Senator INHOFE, who is trying to negotiate with the House to get that done. Hopefully that will get done either this week or next week, but it is cramming into the end of the year.

We have 12 appropriations bills that are still unfinished, and we face a deadline of December 20, or we will run into another government shutdown, which brings me to a bill that Senator HASSAN and I are dropping today, something we have negotiated for months across party lines to be able to have a nonpartisan solution to how we can never ever again discuss government shutdowns.

This past week when I was flying back to DC from home, on the plane as I was coming up, there was a Federal employee who caught me in the aisle of the plane and said: Hey, I hear you are working on stopping government shutdowns. Thank you.

Her next comment surprised me, though. She said she has worked for a Federal agency for years, but she is retiring in January because she is so tired of constantly having to prepare for, get set for a government shutdown that may be pending in the days ahead. It has worn her out.

Someone who has great wisdom and experience and is serving in one of our Federal agencies is retiring in January, and we will lose those years of experience because she is tired of dealing with shutdowns. I don't blame her, quite frankly, although I wish she wouldn't leave. I don't blame her because year after year we end up in this same conversation: Are we going to have another shutdown?

It seems like every year, as we approach Christmas, Federal families across the country wonder if they are about to be furloughed and won't get a check soon.

Federal agency leaders—those who are Senate confirmed all the way through the process of leadership—are not spending their time on vision-setting and on oversight; they are spending their time in their office having to figure out what to do in case there is a government shutdown or working through the process of a continuing resolution because they only get funding a few days at a time.

All of us know this is bad, but for years, we have discussed ending government shutdowns but have never done it. Senator HASSAN and I have put together a nonpartisan bill that is a very straightforward approach that we bring to this body and to the House to say: Let's take government shutdowns off the table forever. Let's make this so that in the decades ahead, we will talk about the way back days long ago when we used to have government shutdowns. In this body now, we have had 21 government shutdowns in the last 40 years. Let's talk about the days that used to happen but never happens again.

We have a very straightforward, simple solution. Our simple solution is, if we get to the end of the funding cycle—at this point, it would be December 20—we will have an automatic continuing resolution that kicks in so that Federal families don't feel the effect of that across the country. They are not on furlough, but Members of Congress and our staff work 7 days a week. We have session here 7 days a week, and we can't move to bills other than appropriations for 30 days so that we are locked into settling the appropriations issue.

The simple resolution is, if we get to the end of the fiscal year and our work is not done, we keep working until it is done. It is not that hard, but we have never made the commitment to each other that we will stay here and continue to work until it is done. What we have done instead is one of two things. We just punt a CR, a continuing resolution, for months at a time and say "OK. Let's get back to this in 8

weeks," which is what we did before, and then before that, there was a 4-week continuing resolution. So we just punt it out and say, "We will keep going, and we will try to figure this out later," which puts a lot of chaos in agencies, or we do a government shutdown while we argue. We go home, and Federal workers are on furlough.

Let's commit to each other that we will never do that again. We will never punt Federal workers on furlough because we can't resolve our differences. Let's also commit to each other that when we get to the end of the fiscal year, we will resolve the problem right then. There is nothing different this week than there was 7 weeks ago when we first started a continuing resolution. There is nothing different about it other than we have just decided to go ahead and get it resolved.

When we get to the end of the problem, this Congress needs a deadline to resolve it. Let's make it, and let's make it very simple and straightforward: We will stay at it until we solve it—that is our commitment—and we will hold Federal workers harmless through that process.

Senator HASSAN and I have worked on this for months. We have three Republicans and three Democrats as we are putting this in front of this body today. We have multiple folks who have already contacted us and said they want to be added as cosponsors as soon as we drop it.

Well, today is the day we have introduced that bill, and we would welcome any of the 100 of us to join us in a non-partisan bill to end government shutdowns forever. Let's keep working until we solve the problem.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 449—EX-PRESSING THE SENSE OF THE SENATE THAT THE NATION, STATES, CITIES, TRIBAL NATIONS, AND BUSINESSES, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER INSTITUTIONS IN THE UNITED STATES SHOULD WORK TOWARD ACHIEVING THE GOALS OF THE PARIS AGREEMENT

Mr. MARKEY (for himself, Mr. CARPER, Mr. REED, Mr. WYDEN, Mr. CASEY, Ms. HASSAN, Ms. SMITH, Mr. MERKLEY, Mr. BOOKER, Mr. DURBIN, Ms. KLOBUCHAR, Mr. VAN HOLLEN, Mrs. SHAHEEN, Mr. BLUMENTHAL, and Mr. WHITEHOUSE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 449

Whereas all of the 197 parties to the United Nations Framework Convention on Climate Change have signed or acceded to the decision by the United Nations Framework Convention on Climate Change's 21st Conference of Parties in Paris, France, adopted December 12, 2015 (referred to in this preamble as the "Paris Agreement");

Whereas the "Special Report on Global Warming of 1.5 °C" by the Intergovernmental Panel on Climate Change and the Fourth National Climate Assessment report found that—

(1) human activity is the dominant cause of observed climate change over the past century;

(2) a changing climate is causing sea levels to rise and an increase in wildfires, severe storms, droughts, and other extreme weather events that threaten infrastructure and human life;

(3) global warming at or above 2 degrees Celsius beyond pre-industrialized levels will cause—

(A) mass migration from regions most affected by climate change;

(B) more than \$500,000,000,000 in lost annual economic output in the United States by the year 2100;

(C) wildfires that, by 2050, will annually burn at least twice as much forest area in the western United States than was typically burned by wildfires in the years preceding 2019;

(D) a loss of greater than 99 percent of all coral reefs on Earth;

(E) more than 350,000,000 more people to be exposed globally to deadly heat stress by 2050; and

(F) a risk of damage to public infrastructure and coastal real estate in the United States valued at an estimated \$1,000,000,000,000;

(4) global temperatures must be kept below 1.5 degrees Celsius above pre-industrialized levels to avoid the most severe impacts of a changing climate; and

(5) limiting global warming will require the extensive use of clean, renewable energy sources, low-carbon-emitting vehicles, energy efficiency, reforestation, and accounting of carbon emissions equal to the social and environmental costs of those emissions;

Whereas, in 2018, carbon dioxide emissions from fossil fuel consumption in the United States rose 2.8 percent after the economy of the United States grew by 18.4 percent between 2005 and 2016, while net greenhouse gas emissions decreased by 12.1 percent during that period;

Whereas 37 States have set renewable energy goals;

Whereas 29 of the 37 States that have set renewable energy goals, 3 territories of the United States, and the District of Columbia have adopted renewable electricity standard requirements to demand clean energy production;

Whereas 23 States and the District of Columbia have adopted greenhouse gas emissions targets;

Whereas 27 States have adopted energy efficiency resource standards;

Whereas 10 States have adopted zero-emission vehicle targets;

Whereas 9 States have implemented the Regional Greenhouse Gas Initiative to construct a market-based system that sets a cap on emissions from the electric sector that declines by—

(1) 2.5 percent per year through 2020; and

(2) 3 percent per year from 2021 through 2030;

Whereas the States of Virginia, New Jersey, and Pennsylvania are making efforts to join the Regional Greenhouse Gas Initiative in 2020;

Whereas the State of California has a strategy to reduce greenhouse gas emissions to 40 percent below 1990 levels by 2030;

Whereas, in the United States, 90 cities, 11 counties, 2 States, and the District of Columbia have adopted 100 percent clean and renewable energy goals, and 217 companies have committed to 100 percent renewable energy;

Whereas more than 3,200,000 people in the United States work in clean energy in all 50 States, including in industries relating to wind energy, solar energy, energy efficiency, clean vehicles, and energy storage;

Whereas, in 2017, approximately 457,000 people in the United States were working in the solar and wind industries, including roofers, electricians, and steel workers;

Whereas the majority of clean energy jobs in the United States are blue collar jobs that pay well;

Whereas the "2018 U.S. Energy and Employment Report" found that jobs in the energy efficiency and renewable energy sector outnumber fossil fuel jobs in the United States 3 to 1;

Whereas the establishment of the vehicle fuel economy emissions standards agreed to in 2012 for vehicle model years 2022 through 2025—

(1) is the single most significant action that has been taken to reduce global warming pollution;

(2) has helped create more than 1,070,000 domestic jobs in the automobile industry of the United States;

(3) will save consumers in the United States nearly \$100,000,000,000 at the gas pump; and

(4) will reduce the reliance of the United States on foreign oil by an estimated 2,500,000 barrels per day by 2030;

Whereas the 2019 report "Accelerating America's Pledge" found that the States, cities, Tribal nations, businesses, and institutions of higher education of the United States that support the objectives of the Paris Agreement—

(1) represent more than 70 percent of the United States economy and more than 50 percent of the emissions of the United States;

(2) are already making significant contributions to emissions reductions; and

(3) have the potential to reduce emissions even further;

Whereas the We Are Still In coalition—

(1) has committed to uphold the Paris Agreement and the commitment of the United States to reduce emissions 26 to 28 percent below 2005 levels by 2025; and

(2) since the launch of the coalition in 2017, has tripled in size to nearly 4,000 cities, States, businesses, universities, healthcare organizations, faith groups, and cultural institutions in all 50 States as of 2019; and

Whereas the United States needs both a fully engaged Federal Government and cities, States, and businesses working together to reduce emissions and avoid the worst impacts of climate change: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the United States—

(1) should remain a party to the Paris Agreement;

(2) should support policies at the Federal, State, and local level that promote the reduction of global warming pollution and aim to meet the objectives of the Paris Agreement; and

(3) should support the efforts of businesses and investors to take action on climate change.

#### SENATE RESOLUTION 450—RECOGNIZING THE 71ST ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE CELEBRATION OF "HUMAN RIGHTS DAY"

Mr. COONS (for himself and Mr. TILLIS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 450

Whereas the Universal Declaration of Human Rights, adopted by the United Nations on December 10, 1948, represents the first comprehensive agreement among countries as to the specific rights and freedoms of all human beings;

Whereas the Universal Declaration of Human Rights upholds the basic principles of liberty and freedom enshrined in the Constitution of the United States and the Bill of Rights;

Whereas awareness of human rights—

(1) is essential to the realization of fundamental freedoms;

(2) promotes equality;

(3) contributes to preventing conflict and human rights violations; and

(4) enhances participation in democratic processes;

Whereas Congress has a proud history of promoting human rights that are internationally recognized; and

Whereas December 10 of each year is celebrated around the world as “Human Rights Day”: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates December 10, 2019, as “Human Rights Day”;

(2) recognizes the 71st anniversary of the Universal Declaration of Human Rights;

(3) reaffirms the Universal Declaration of Human Rights;

(4) supports the right of human rights defenders all over the world to promote the fundamental freedoms enshrined in the Universal Declaration of Human Rights; and

(5) encourages the people of the United States—

(A) to observe Human Rights Day; and

(B) to continue a commitment to upholding freedom, democracy, and human rights around the globe.

**SENATE RESOLUTION 451—CONGRATULATING ASTRONAUTS DR. JESSICA U. MEIR AND CHRISTINA H. KOCH FOR THE HISTORIC ACCOMPLISHMENT OF COMPLETING THE FIRST ALL-FEMALE SPACEWALK**

Ms. COLLINS (for herself, Ms. STABENOW, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. CANTWELL, Ms. KLOBUCHAR, Mrs. SHAHEEN, Mrs. GILLIBRAND, Ms. WARREN, Mrs. FISCHER, Mrs. CAPITO, Ms. ERNST, Ms. DUCKWORTH, Ms. HASSAN, Ms. HARRIS, Ms. SMITH, Mrs. HYDE-SMITH, Mrs. BLACKBURN, Ms. SINEMA, Ms. MCSALLY, Ms. ROSEN, Ms. HIRONO, Ms. CORTEZ MASTO, Ms. BALDWIN, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 451

Whereas, on October 18, 2019, Dr. Jessica U. Meir and Christina H. Koch became the first astronauts to take part in an all-female spacewalk;

Whereas, although the first spacewalk took place in 1964, the first female spacewalk did not take place until 1984, when Kathryn Sullivan became the first woman of the United States to perform a spacewalk with male astronaut David Leestma;

Whereas the October 18, 2019 spacewalk was the first spacewalk for Dr. Meir and the fourth spacewalk for Ms. Koch;

Whereas, during the 7 hour and 7 minute mission, the 2 astronauts successfully replaced a faulty 232-pound battery unit that charges and discharges the solar power system of the International Space Station;

Whereas Dr. Meir and Ms. Koch continue to perform critical tasks in support of the mission of the National Aeronautics and Space Administration (referred to in this preamble as “NASA”) and are conducting numerous experiments to advance scientific knowledge and the understanding of the long-term effects of space on humans;

Whereas Ms. Koch is expected to break the record for the longest single spaceflight by a woman when she completes her mission to the International Space Station, spending 328 total consecutive days in space;

Whereas Dr. Meir is a native of Caribou, Maine, and her impressive academic credentials include a bachelor of arts in Biology from Brown University, a master of science in Space Studies from the International Space University, and a doctorate in Marine Biology from the Scripps Institution of Oceanography;

Whereas Ms. Koch is a native of Grand Rapids, Michigan, and her superior academic credentials include a bachelor of science in Electrical Engineering, a bachelor of science in Physics, and a master of science in Electrical Engineering from North Carolina State University;

Whereas NASA did not even admit women into its astronaut program until 1978;

Whereas Dr. Meir and Ms. Koch were both members of the 2013 Astronaut Candidate Class of NASA, which was comprised of 8 astronauts and was the first class to include equal numbers of men and women;

Whereas Dr. Meir and Ms. Koch are an inspiration to girls and boys across the United States and have spoken to hundreds of students from the International Space Station to answer their questions and to encourage them to pursue their dreams;

Whereas developing the next generation of women astronauts is a priority for the study and exploration of space: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates and expresses pride in Dr. Jessica U. Meir and Christina H. Koch for successfully completing the first all-female spacewalk in history; and

(2) supports the efforts of the National Aeronautics and Space Administration (referred to in this resolving clause as “NASA”) to—

(A) fully integrate women into the astronaut corps; and

(B) ensure that one of the next humans to walk on the Moon will be a woman.

**SENATE RESOLUTION 452—COMMEMORATING AND SUPPORTING THE GOALS OF WORLD AIDS DAY**

Mr. ISAKSON (for himself, Mr. COONS, Mr. RISCH, Mr. MENENDEZ, Mr. SULLIVAN, and Mr. BOOKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 452

Whereas, as of the end of 2018, an estimated 37,900,000 people were living with human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), including 1,700,000 children;

Whereas the United Nations Sustainable Development Goals established a global target to end AIDS as a public health threat by 2030;

Whereas the Global Fund to Fight AIDS, Tuberculosis and Malaria was launched in 2002, and, as of 2018, has helped provide antiretroviral therapy to approximately 18,900,000 people living with HIV/AIDS and to 719,000 pregnant women to prevent the transmission of HIV/AIDS to their children, saving an estimated 32,000,000 lives;

Whereas the United States is the largest donor to the Global Fund to Fight AIDS, Tuberculosis and Malaria and, as of December 2019, every \$1 contributed by the United States has leveraged an additional \$2 from other donors;

Whereas the United States President's Emergency Plan for AIDS Relief (PEPFAR) program remains the largest commitment in history by any country to combat a single disease;

Whereas, as of 2018, PEPFAR has supported treatment for approximately 14,600,000 people, including by providing antiretroviral drugs to 2,400,000 pregnant women living with HIV to prevent the transmission of HIV from mother to child during birth;

Whereas, in fiscal year 2018, PEPFAR directly supported HIV testing and counseling for nearly 95,000,000 people;

Whereas considerable progress has been made in the fight against HIV/AIDS, including a 16-percent reduction in new HIV infections, a 41-percent reduction in new HIV infections among children, and a 33-percent reduction in the number of AIDS-related deaths between 2010 and 2018;

Whereas approximately 23,300,000 people had access to antiretroviral therapy in 2018, compared to only 7,700,000 people who had access to such therapy in 2010;

Whereas it is estimated that, without treatment, ½ of all infants living with HIV will die before their second birthday;

Whereas, despite the remarkable progress in combatting HIV/AIDS, significant challenges remain;

Whereas there were approximately 1,700,000 new HIV infections in 2018, structural barriers continue to make testing and treatment programs inaccessible to highly vulnerable populations, and an estimated 8,100,000 people living with HIV globally still do not know their HIV status;

Whereas the Centers for Disease Control and Prevention estimates that more than 37,000 people are diagnosed with HIV in the United States every year and 14 percent of the 1,100,000 people in the United States living with HIV are not aware of their HIV status;

Whereas, in the United States, more than 675,000 people with AIDS have died since the beginning of the HIV/AIDS epidemic, including 15,807 deaths among people with diagnosed HIV in 2017, with the disease disproportionately affecting minority communities;

Whereas December 1 of each year is internationally recognized as “World AIDS Day”; and

Whereas, in 2019, commemorations for World AIDS Day focused on the vital role that communities play in addressing the HIV/AIDS epidemic: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of World AIDS Day, including the goal to achieve zero new HIV infections, zero discrimination, and zero AIDS-related deaths;

(2) commends the efforts and achievements in combatting HIV/AIDS made by PEPFAR, the Global Fund to Fight AIDS, Tuberculosis and Malaria, and the Joint United Nations Programme on HIV/AIDS;

(3) supports efforts to end the HIV epidemic in the United States by 2030;

(4) urges, in order to ensure that an AIDS-free generation is achievable, rapid action by all countries toward further expansion and scale-up of antiretroviral treatment programs, including efforts to reduce disparities and improve access for children to life-saving medications;

(5) encourages the scaling up of comprehensive prevention services, including biomedical and structural interventions, to

ensure inclusive access to programs and appropriate protections for all people at risk of contracting HIV/AIDS, especially hard-to-reach populations;

(6) calls for greater focus on the HIV-related vulnerabilities of women and girls, including women and girls at risk for or who have survived violence or faced discrimination as a result of the disease;

(7) supports continued leadership by the United States in domestic, bilateral, multilateral, and private sector efforts to fight HIV;

(8) encourages and supports greater degrees of ownership and shared responsibility by developing countries in order to ensure the sustainability of the domestic responses to HIV/AIDS by those countries; and

(9) urges other members of the international community to sustain and scale up their support for and financial contributions to efforts around the world to combat HIV/AIDS.

#### AUTHORITY FOR COMMITTEES TO MEET

Mr. McCONNELL. Mr. President, I have 5 requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on Tuesday, December 10, 2019, at 10 a.m., to conduct a hearing on the following nominations: Mitchell A. Silk, of New York, to be an Assistant Secretary of the Treasury, Brian D. Montgomery, of Texas, to be Deputy Secretary, and David Carey Woll, Jr., of Connecticut, and John Bobbitt, of Texas, both to be an Assistant Secretary, all of the Department of Housing and Urban Development, and Peter J. Coniglio, of Virginia, to be Inspector General, Export-Import Bank; to be immediately followed by an oversight hearing to examine the Securities and Exchange Commission.

#### COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Tuesday, December 10, 2019, at 10 a.m., to conduct a hearing.

#### COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Tuesday, December 10, 2019, at 10 a.m., to conduct a hearing.

#### SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Thursday, November 21, 2019, at 2 p.m., to conduct a closed hearing.

#### SUBCOMMITTEE ON INTELLECTUAL PROPERTY

The Subcommittee on Intellectual Property of the Committee on the Ju-

diciary is authorized to meet during the session of the Senate on Tuesday, December 10, 2019, at 2.30 p.m., to conduct a hearing.

#### PRIVILEGES OF THE FLOOR

Mrs. MURRAY. Mr. President, I ask unanimous consent that an FDA detailee on my HELP Committee staff, Michael Varrone, be granted floor privileges through August 2020.

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

Mr. WYDEN. Mr. President, I ask unanimous consent that two members of my team, Whitney Wagner and Brian Webster, be granted floor privileges for the remainder of the Congress.

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

#### SUPPORTING THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA, AND THE SIXTH REPLENISHMENT

On Monday, December 2, 2019, the Senate passed S. Res. 318, as follows:

#### S. RES. 318

Whereas the Global Fund to Fight AIDS, Tuberculosis, and Malaria has been an effective partnership of governments, the private sector, civil society, and affected communities to galvanize political and financial efforts to improve the response to these epidemics since 2002;

Whereas, in 2017, the Global Fund contributed to extraordinary improvements in global health that would otherwise not have occurred, including a more than 50 percent reduction in the number of AIDS-related deaths since the peak in 2005, a 37 percent decline in tuberculosis (TB) deaths since 2000, and a 60 percent decline in the number of malaria deaths since 2000;

Whereas, since the Global Fund's creation in 2002, more than 27,000,000 lives have been saved in the countries where it invests;

Whereas the Global Fund and its partners work to maintain a steadfast commitment to transparency and accountability and have received high marks in multilateral aid reviews and by independent watchdog groups;

Whereas a 2019 study published in the *Annals of Global Health* found evidence of associated improvements in government accountability, control of corruption, political freedoms, regulatory quality, and rule of law that are significant in countries where the Global Fund invests;

Whereas, despite progress in combating AIDS, tuberculosis, and malaria, challenges such as drug and insecticide resistance, reaching marginalized and vulnerable populations, and complacency in the fight against infectious diseases threaten further progress;

Whereas United States leadership has been critical to the success of the Global Fund, both as its largest donor and through its oversight role on the Board of the Global Fund;

Whereas Global Fund programs and activities support and complement United States bilateral health programs, including the President's Emergency Plan for AIDS Relief, the President's Malaria Initiative, and the United States Agency for International Development tuberculosis program;

Whereas the United States is limited by law from contributing more than 33 percent of the Global Fund budget, thereby encouraging other partners to significantly increase their contributions;

Whereas the Global Fund's requirements for co-financing have spurred domestic investments, with recipient countries committing 41 percent more of their own funding to fight AIDS, tuberculosis, and malaria for 2018–2020 compared to 2015–2017;

Whereas the Global Fund has called on donors to support its Sixth Replenishment by mobilizing a minimum of \$14,000,000,000 in donor commitments for 2021–2023;

Whereas Canada, the European Union, Germany, India, Ireland, Italy, Luxembourg, Japan, Portugal, Switzerland, and the United Kingdom have responded to the call by significantly increasing their respective pledges for the Sixth Replenishment;

Whereas recipient countries also are expected to increase their co-financing by 48 percent, growing to \$46,000,000,000 in 2021–2023; and

Whereas, with these resources secured, the Global Fund projects it will reduce the number of deaths due to AIDS, TB, and malaria by nearly 50 percent, avert 234,000,000 infections or disease cases, and save an additional 16,000,000 lives: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the work of the Global Fund and its partners for their contributions aimed at ending the epidemics of AIDS, tuberculosis, and malaria;

(2) affirms the support of the United States for the goal of securing a minimum of \$14,000,000,000 in donor commitments for the Sixth Global Fund Replenishment, to be held on October 10, 2019, in Lyon, France;

(3) supports United States contributions of 33 percent of the budget provided by the Global Fund's Sixth Replenishment, consistent with section 202(d) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7622(d)), and provided that the Fund continues to uphold its longstanding commitment to transparency, accountability, and results in combating AIDS, tuberculosis, and malaria;

(4) urges donor countries to step up the fight and increase their pledges for the Sixth Global Fund Replenishment;

(5) urges Global Fund recipient countries to continue to make and meet ambitious co-financing commitments to sustain progress in ending the epidemics of AIDS, tuberculosis, and malaria; and

(6) encourages United States bilateral aid programs to continue their collaboration with the Global Fund to maximize the life-saving impact of global health investments.

#### MEASURE READ THE FIRST TIME—S. 3009

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

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 3009) to provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations.

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

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.

## VIRGINIA BEACH STRONG ACT

The PRESIDING OFFICER. Pursuant to the order from November 21, 2019, the Senate having received H.R. 4566 from the House, and the text being identical to S. 2592, the House bill is considered read a third time, and the question is on the passage of the bill.

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

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

The bill (H.R. 4566) was passed.

## FOSTERING UNDERGRADUATE TALENT BY UNLOCKING RESOURCES FOR EDUCATION ACT

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5363.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 5363) to reauthorize mandatory funding programs for historically Black colleges and universities and other minority-serving institutions, and for other purposes.

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

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

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

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

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

The PRESIDING OFFICER. Is there further debate?

Hearing none, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 5363) was passed.

Mr. McCONNELL. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

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

## CONGRATULATING ASTRONAUTS DR. JESSICA U. MEIR AND CHRISTINA H. KOCH FOR THE HISTORIC ACCOMPLISHMENT OF COMPLETING THE FIRST ALL-FEMALE SPACEWALK

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 451, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 451) congratulating astronauts Dr. Jessica U. Meir and Christina H. Koch for the historic accomplishment of completing the first all-female spacewalk.

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

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 451) was agreed to.

The preamble was agreed to. (The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

## ORDERS FOR WEDNESDAY, DECEMBER 11, 2019

Mr. McCONNELL. Now, Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, December 11; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved

to date, the time for the two leaders be reserved for their use later in the day, morning business be closed, and the Senate proceed to executive session and resume consideration of the VanDyke nomination; finally, that all time during recess, adjournment, morning business, and leader remarks count postcloture on the VanDyke nomination.

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

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:30 p.m., adjourned until Wednesday, December 11, 2019, at 9:30 a.m.

## DISCHARGED NOMINATION

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination under the authority of the order of the Senate of 01/07/2009 and the nomination was placed on the Executive Calendar:

\*SEAN O'DONNELL, OF MARYLAND, TO BE INSPECTOR GENERAL, ENVIRONMENTAL PROTECTION AGENCY.

\*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

## CONFIRMATION

Executive nomination confirmed by the Senate December 10, 2019:

## THE JUDICIARY

PATRICK J. BUMATAY, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.