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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

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

Let us pray.

Eternal God, the giver of every good and perfect gift, help our Senators to listen clearly to Your sacred Word and find wisdom in Your guidance. May they remember Your teachings and courageously follow them.

As You guide them along the right path, keep them from stumbling. May they live such exemplary lives that they will be like sunlight at dawn, growing brighter with the passing hours.

Lord, give our lawmakers wisdom to carefully guard their thoughts, to strive to speak truthfully, and to refuse to deviate from integrity.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore 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.

The PRESIDING OFFICER (Mrs. BLACKBURN). The Senator from Iowa.

PRESCRIPTION DRUG PRICING REDUCTION ACT

Mr. GRASSLEY. Madam President, Senator WYDEN and I received a letter from the Michael J. Fox Foundation for Parkinson's Research. Their letter endorsed our bipartisan Prescription Drug Pricing Reduction Act, which tries to respond to what we are hearing from our constituents about the public outrage over the big increases in prescription drugs.

Now, it happens with Parkinson's disease that about 1 million Americans

have it, and it seems like up to now there is no way to stop it or cure it, but thanks to modern medicine, the symptoms can be treated to help patients live a much better life.

Ninety percent of all individuals diagnosed with Parkinson's disease are on Medicare. Our bill, the bill to reduce prescription drug prices, would help these seniors afford their medicine with a cap on out-of-pocket expenses. In other words, they would know at the beginning of the year that they only have to spend x number of dollars on drugs, no more.

Of course, this brings me to what Congress should be doing. Congress needs to act, not only for those with Parkinson's disease, but for all Americans who need our help.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RESERVATION OF LEADER TIME

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. 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 Matthew Walden McFarland, of Ohio, to be United States District Judge for the Southern District of Ohio.

The PRESIDING OFFICER. The Senator from Illinois.

TOBACCO TO 21

Mr. DURBIN. Madam President, this week we are going to be voting on some appropriation bills. They are rather large. They call them minibuses. But there will be six or eight appropriations bills bunched together, and they will include things other than strictly spending measures.

One of the areas that will be addressed is the age that you must reach to purchase tobacco and vaping materials in the United States. It is known euphemistically as T-21, and I have supported it for years. The notion of raising the purchasing age to 21 for these products, to me, just makes sense.

We know that they are addictive. Both cigarette tobacco and vaping materials have nicotine in them, a highly addictive chemical. Raising the age of purchase across the United States to 21 makes sense.

But I am disappointed as well. Although I originally sponsored this bill, there have been several revelations in the last few months, which call for us to move far beyond the idea of establishing a new age for purchasing these products, and let me be specific.

One of the things we have been working on is trying to address the shocking increase in the use of vaping materials and e-cigarettes by young people across America. It has been called a public health epidemic, not by a politician but by the Commissioner of the Food and Drug Administration. That Commissioner told us, as well as the Surgeon General of the United States, that this is an issue that cannot be ignored.

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



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Today, we estimate that nearly 30 percent of school-age children are vaping—more than 5 million kids across America.

A group of young high schoolers came in to see me from New York last week and said: Senator, you are all wrong. In our schools it is a majority.

A majority of the students are vaping, not only outside of the school, but even in the classroom. They have hooked up vaping devices to the clothing that they are wearing, and when the teacher turns his or her back on the class, they are puffing on their vaping materials—their Juuls—and blowing the white vapor into the air of the classroom.

It sounds incredible, but they told me it is true and it happens all over the school—in the restrooms, in the cafeteria, in the classrooms.

The reason it is happening is that so many students are vaping now and it is an addiction. As these students continue to vape, their appetite for the product grows.

Kids are using these products for many reasons, and I can get into the psychology of it for a minute, but let me dwell on the obvious.

The flavors that are being sold on these vaping materials are designed for them—to attract children to Juul's products, to flavors like Cotton Candy, Unicorn Milk—whatever the heck that is—Cool Mint, Mom's Sugar Cookies, and, yes, Menthol.

According to the Food and Drug Administration, more than 80 percent of children who vape start with a flavored e-cigarette.

Now, the vaping industry says: Oh, you have got it all wrong. You see, this is a non-tobacco product which people can use to get off cigarettes.

Well, that sounds pretty noble; doesn't it? We want people to move away from something more dangerous, like tobacco cigarettes.

But when you look at the incidence of people using this product, it is miniscule in terms of adults with a tobacco addiction moving to vaping products, and the number of children and young students moving from non-vaping to vaping is dramatic. As I mentioned, the official figures are 30 percent of high school students.

According to the Food and Drug Administration, one of the things that is luring young people to this behavior is the flavoring or the flavor pods. Does anyone believe these flavors are intended for some 50-year-old chain smoker who wants to give up on tobacco cigarettes—flavors like Farley's Gnarly Sauce, Bubble Purp by Chubby Bubbles, Blue Razz by Candy King, Cotton Candy by Zonk? Some 50-year-old is attracted to Cotton Candy by Zonk?

We know better. These flavor pods are made for kids—to attract kids, get them started, get them hooked, and make them lifelong customers.

Together with bipartisan colleagues, I have pressed the Food and Drug Administration and the White House for

years to put an end to these kid-friendly flavor pods.

Well, the tobacco giant Altria—it used to be Philip Morris, if I am not mistaken—stepped in and bought the lion's share of the stock of Juul, the most prolific producer of vaping devices in the United States.

Altria knows this business and how to attract kids because they used to make Marlboro cigarettes. Remember that cowboy designed to appeal across the board, particularly to young smokers?

Well, now they have a new gig. It is called vaping, e-cigarettes, and Altria has bought in in a big way.

They have been taking out ads to support raising the Federal age to purchase tobacco products to 21.

Wait a minute. A tobacco company wants to raise the age for purchasing the products?

They do. They see it as inevitable, but it is also part of their market strategy. That is the same policy I have supported, and I thank my colleagues Senator SCHATZ and Senator Kaine for joining in the effort, along with Senator ROMNEY. But what we have seen is that Altria has invested \$13 billion to acquire a 35-percent stake in Juul, which controls more than 70 percent of the vaping market. Tobacco is big in vaping.

Altria and Juul together now believe that if the only thing we do is just raise the tobacco age to 21, they will be in the clear and they can avoid the scrutiny for their targeted efforts to hook kids on e-cigarettes.

I disagree. I have made clear that any T-21, "Tobacco to 21" policy must be coupled with meaningful provisions to get rid of the e-cigarette flavors now addicting our kids, but they have turned to one of their allies, Senator McCONNELL, on this effort, who was an original sponsor on T-21. His party resisted the effort to join the banning of flavor pods for e-cigarettes as part of the T-21 bill in our appropriations bill.

I fear that the spending bill will come before us and include just the T-21 policy, and that of course doesn't address what is happening with vaping among children in America.

If we are serious about sparing Americans, particularly our kids, from addictions to nicotine, it has to reach beyond tobacco cigarettes to vaping. It is a mistake not to do so.

The public health community agrees with me on that. Any serious solution to skyrocketing rates of youth e-cigarette use must include the removal of kid-friendly flavors—not just the tobacco industry's preferred policy—and I will continue to work with Members on both sides of the aisle in pushing to do so.

Finally, let me say on this subject that on September 15, President Trump held a press conference in the Oval Office on this subject of vaping. Sitting next to him was the First Lady of the United States, Melania Trump. She doesn't often stand up on political

issues, but she is the mother of a teenager, and she decided to speak out against vaping. I thanked her. I praised her along with the President. They did the right thing, but now we are not sure where the President is on this subject. We are not sure if he is going to continue his effort to end the scourge of vaping and e-cigarettes.

I hope the President comes back to the position he announced in September. We need his help to ban these flavor pods.

The recent appointee as FDA Commissioner, Stephen Hahn, has told me personally and many of my colleagues that he thinks this is a serious issue. I believe he ought to be given the authority to exercise his legal right and power to stop these pods and stop these devices as quickly as possible.

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

The PRESIDING OFFICER (Mr. CRAMER). Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The Republican leader is recognized.

IMPEACHMENT

Mr. McCONNELL. Mr. President, all eyes today are on the House of Representatives. The country is waiting to see whether these House Democrats will give in to the temptation that every other House in modern history has managed to resist and misuse the solemn process of impeachment to blow off partisan steam. I will have more to say on this subject if House Democrats do, in fact, proceed.

Yesterday I came to the floor to discuss one initial aspect of this that concerns our Senate process. Over the weekend, my colleague the Democratic leader began asking the Senate to break from precedent, break with the unanimous template from 1999, and begin choreographing the middle of a potential trial before we have even heard opening arguments.

Back in 1999, all 100 Senators agreed on a simple pretrial resolution that set up a briefing, opening arguments, Senators' questions, and a vote on a motion to dismiss. Senators reserved all other questions, such as witnesses, until the trial was underway. That was the unanimous bipartisan precedent from 1999. Put first things first, lay the bipartisan groundwork and leave midtrial questions to the middle of the trial.

I have hoped, and still hope, that the Democratic leader and I can sit down and reproduce that unanimous bipartisan agreement this time. His decision to try to angrily negotiate through the press is unfortunate, but no amount of bluster will change the simple fact that we already have a unanimous bipartisan precedent. If 100 Senators

thought this approach was good enough for President Clinton, it ought to be good enough for President Trump.

I hope House Democrats see reason to pull back from the precipice, but if they proceed, I hope the Democratic leader and I can sit down soon and honor the template that was unanimously agreed to the last time.

Mr. President, on another matter, in the meantime, the Senate is busy completing the legislation our country actually needs. Yesterday the Senate passed the NDAA conference report and put it on President Trump's desk. Thanks to the diligence of Chairman INHOFE and Ranking Member REED, this critical legislation to support our armed services will become law for a 59th consecutive year.

APPROPRIATIONS

Mr. President, tomorrow we will vote on government funding bills the House passed yesterday. A lot of hard work brought this appropriations process back from the brink. Here are some of the important things that will happen as a result: stable, full-year funding for our Armed Forces, including research and modernization; the largest pay raise for our troops in a decade; and more support for key alliances like NATO, close partners like Israel, and high-priority areas like Hong Kong.

The bills also deliver on vital domestic priorities as well. It funds infrastructure and transportation projects. It repeals even more of Obamacare by cutting out more harmful taxes.

Every single State wins in this bill. By way of example, here are a few ways my State will benefit. This bill keeps the decade-old promise of a new, modern VA medical center with a special emphasis on care for women veterans. There is support for fighting invasive Asian Carp in West Kentucky, for Central Kentucky's role in high-tech agricultural research. Of course, Kentucky has a huge stake in our Nation's battle against opioid and substance abuse. I am proud these bills fund housing and treatment programs established by my CAREER Act to help those in long-term recovery reenter the workforce.

Speaking of addiction, I am especially proud that this legislation includes my T-21 legislation to raise the nationwide age for purchasing tobacco and vaping products to 21 years old and help roll back the explosion in tobacco and nicotine use among our Nation's youth.

I am proud to have worked with Senator Kaine and others on both sides to ensure that the legislation we drafted became law this year. Senator TODD YOUNG of Indiana was also deeply involved in this as well. I am proud that these bills include direct bipartisan action that I urged to shore up the looming pension and healthcare crisis faced by coal communities in Kentucky and across the Nation.

These are some examples from Kentucky. This legislation touches, in fact, all 50 States. This is why full-year funding bills are better than chronic

CRs. This is why the Senate should pass these bills this way and send them to the President's desk.

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

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

The Senator from South Dakota.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. THUNE. Mr. President, we are wrapping up the year in the Senate, and I am looking forward to getting home to South Dakota for Christmas. Before we leave, we will wrap up this year's spending bills, including the Defense funding bill.

Yesterday we passed the National Defense Authorization Act, which is yearly legislation to authorize funding for our military and our national defense. I am pleased to report that this year's bill authorizes the full annual funding request for development of the B-21 bomber, which will be coming to Ellsworth in the not-too-distant future.

The news that Ellsworth Air Force Base had been selected as the first home of the future B-21 Raider was exciting news this year. Ellsworth Air Force Base has been a priority of mine since I first came to the Senate and worked with a lot of dedicated people to prevent Ellsworth from being closed by the Base Realignment and Closure Commission in 2005.

Since then, I have worked with the other Members of the South Dakota delegation and the Air Force and community leaders to make sure the base never again finds itself in the same position. Among other things, our efforts resulted in the expansion of the Powder River Training Complex into the largest training airspace in the continental United States.

It is undoubtedly partly thanks to this airspace that Ellsworth was chosen as the first home for the B-21. Ellsworth is going from strength to strength. I am honored to advocate for our national security and the airmen at Ellsworth in the U.S. Senate.

UNITED STATES-MEXICO-CANADA TRADE AGREEMENT

Mr. President, agriculture is the lifeblood of our economy in South Dakota, and our farmers and ranchers are always at the top of my priority list in the Senate. Thanks to national disasters, protracted trade disputes, and several years of low commodity prices, farmers and ranchers have had a tough few years.

This spring, farmers throughout the Midwest were hit with heavy rainfall and flooding. By the time the soil finally dried out enough for planting, it was too late for many farmers to plant their normal crops, and many had to turn quick-growing cover crops that could be used for feed and grazing and to protect the soil.

The farmers in South Dakota and other Northern States faced a problem. The Department of Agriculture had set November 1 as the first date on which farmers could harvest these cover crops for feed or use them for pasture without having their crop insurance indemnity reduced.

Farmers who hayed or grazed before this date faced a reduction in their prevent plant indemnity payments, which are crop insurance payments to help them cover their income loss when the fields can't be planted due to flooding or other issues.

While November 1 is a reasonable date for farmers in Southern States, for farmers in Northern States like South Dakota, November 1 is too late for harvesting thanks to killing frost and the risk of late fall and early winter storms. It is too late to maximize the use of cover crops for pasture, since a killing frost is liable to flatten cover crops before they are grazed.

So, beginning in early May, I started pressing the Department of Agriculture to change the November 1 date. In June, the Department of Agriculture announced that it would move up the November 1 date for 2019 by 2 months, to September 1—a significant amount of time that allowed South Dakota farmers to plant cover crops without worrying about whether they would be able to successfully harvest or graze them.

A year ago this week, the President signed into law the 2018 farm bill, which contained nearly 20 provisions that I authored based on input from South Dakota farmers and ranchers. This year, I have closely monitored the Department of Agriculture's implementation of the bill. In particular, I have pressed the Department of Agriculture to implement the bill's improvements to the Conservation Reserve Program and hold CRP signups, and I am pleased the administration opened a CRP signup earlier this month.

When I talk to farmers and ranchers at home in South Dakota, they emphasize that the most important thing Washington can do to boost our agriculture economy is to take action on trade agreements.

Farmers and ranchers need access to new and expanded markets for their products. Just as importantly, they need certainty about what international markets are going to look like going forward.

I have spent a lot of time this year pushing for Congress to approve the United States-Mexico-Canada Trade Agreement. After months and months of unnecessary delay, I am pleased this agreement is now moving forward. I am hopeful the Senate will pass it in January so the farmers and ranchers can start experiencing the benefits.

RENEWABLE FUELS

Mr. President, one piece of good news for corn farmers came this year with the administration's announcement that it would permit the year-round

sale of E15, which is 15 percent ethanol-blended fuel. I spent over a decade advocating the year-round sale of E15, and I was very pleased by the administration's announcement.

However, for corn farmers to see the full benefit of year-round E15 sales, the Environmental Protection Agency needs to start accounting for its unprecedented use of small refinery exemptions. These so-called hardship waivers should be limited only to instances where small refiners would no longer be profitable or competitive by complying with their blending obligation under the renewable fuel standard.

On Friday, the EPA is poised to finalize a supplemental rule that it assures us will deliver on the President's commitments to account for waivers and to truly blend 15 billion gallons of ethanol each year.

However, based on this EPA's track record, it is difficult to trust it will retreat from its aggressive issuance of small refinery exemptions. I hope the EPA proves me wrong, but I think I speak for most of farm country when I say I will believe it when I see it.

On the topic of renewable fuels, I am happy to be able to say that the biodiesel tax credit will be extended for 5 years, through 2022, as part of this year's tax extenders deal. Biodiesel is a good deal for farmers, as it adds value to each bushel of soybeans by making use of the oil from bean processing, and it is a good deal for our environment because the use of this fuel lowers emissions.

MOBILE NOW ACT

Mr. President, as a former chairman of the Senate Commerce Committee and current chair of the Commerce Subcommittee on Communications, Technology, Innovation, and the Internet, I have spent a lot of time over the last few years focused on Internet, communications, and data privacy issues.

One big priority of mine has been paving the way for 5G—the next generation of wireless technology—ensuring that rural areas and not just big cities get this technology.

Last year, the President signed the law, my bipartisan MOBILE NOW Act, which was legislation I introduced to help secure adequate spectrum for 5G technology.

STREAMLINE SMALL CELL DEPLOYMENT ACT

Mr. President, earlier this year, Senator SCHATZ and I introduced the STREAMLINE Small Cell Deployment Act to address the other part of the 5G equation. That is infrastructure.

I was thrilled to be home in Sioux Falls to mark a huge milestone for the city and for South Dakota—the unveiling of Sioux Falls' first 5G small cells, which are small antennas that will join traditional cell towers to support 5G technology.

5G has tremendous promise for rural areas, but it will deliver on that promise only if we ensure that 5G cells are actually deployed in these areas. I am proud we have made a good start in

South Dakota. The Sioux Falls mayor, Paul TenHaken, has worked aggressively to remove barriers to telecommunications investment in Sioux Falls.

Advancing 5G will continue to be a priority of mine here in the Senate. We want the United States, not China or South Korea, to win the race to 5G and to seize the economic benefits that 5G will bring.

Another thing I have spent a lot of time working on in the Commerce Committee this year is data privacy. In October, I introduced the Filter Bubble Transparency Act, which is designed to address one aspect of the data privacy problem—the issues that arise from internet companies' use of consumers' personal data to shape what consumers see on their platforms.

I also introduced legislation this year with Senator ED MARKEY to address the problem of annoying, illegal robocalls. I am hopeful that our legislation, the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act—or the TRACED Act—will pass the Senate soon and be on the President's desk before Christmas.

I have worked on a lot of other bills this year to make life better for South Dakotans and American families. I have introduced tax reform bills to help small businesses, update the tax code for the 21st century economy, encourage charitable giving, and permanently protect family farms from the death tax. I have introduced legislation to protect access to healthcare in rural areas, helped Americans repay their student loans, and much more. I will continue to work on these issues in the new year.

As always, my priority will be ensuring that Congress is addressing the challenges facing South Dakota families.

The holidays are a time to reflect on the blessings we have received, and I feel truly blessed to call the great State of South Dakota home. It is an honor and a privilege to represent the people of South Dakota in the U.S. Senate.

To all South Dakotans, I hope you have a wonderful Christmas and a joyous holiday season. I look forward to continuing to represent your priorities here in Washington and in the coming new year.

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.

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

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

CHANGE OF VOTE

Ms. HASSAN. Mr. President, on roll-call vote No. 380, I was recorded as yea. It was my intention to be recorded as

nay. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

Ms. HASSAN. Thank you.

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

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

EXECUTIVE CALENDAR—Continued

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

IMPEACHMENT

Mr. SCHUMER. Mr. President, in response to the limited set of relevant witnesses I proposed for a potential Senate trial earlier this week, the Republican leader gave a lengthy speech on the floor yesterday and another speech today. In neither of those speeches could the Republican leader offer one salient argument as to why the witnesses I proposed—all senior Trump administration officials—shouldn't be allowed to testify. Instead, he made what are, in my view, irrelevant and incomplete comparisons to the 1999 Clinton trial.

When faced with the fact that it is only fair to have these witnesses, who were eyewitnesses to the major, major allegations against the President and who had not testified before, the leader can't talk about 2019. He has to go back to 1999 because he has no good argument as to why they shouldn't testify.

We are not asking to be dilatory. We are not asking for a list of 4,000 witnesses. We are simply asking that those who know the truth best come and talk to us here in the Senate and to the American people.

There is one fact that is impossible for the Senate to ignore. In the two Presidential impeachment trials in the history of this body, the Senate heard from witnesses, but Leader MCCONNELL continues to push for no witnesses in the Senate trial. I have yet to hear an explanation as to why less evidence is better than more evidence, particularly when it comes to something as somber, as serious, and as important as impeachment of the President of the United States of America.

Leader MCCONNELL keeps talking about 1999 because he doesn't want to talk about 2019. The two situations are not analogous. Rather than focus on the past, the Republican leader should focus on the present and offer one good reason why relevant witnesses shouldn't testify in an impeachment trial of President Trump, particularly in light of the fact that we have not