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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. CUELLAR).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 29, 2020.

I hereby appoint the Honorable HENRY CUELLAR to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2020, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with time equally allocated between the parties and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes, but in no event shall debate continue beyond 11:50 a.m.

UNITED STATES-MEXICO-CANADA TRADE AGREEMENT BECOMES LAW

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. THOMPSON) for 5 minutes.

Mr. THOMPSON of Pennsylvania. Mr. Speaker, today, at long last, the United States-Mexico-Canada trade agreement, USMCA, will officially become law. USMCA is a major win not only for American farmers, ranchers, manufacturers, and business owners, but for each and every American who depends on these industries.

Thanks to the leadership of the Trump administration, we are delivering real results for the men and women who are the backbone of the American economy. Freer markets, fairer trade, and increased opportunity are on the horizon as USMCA is signed today and implemented.

The numbers are staggering: more than $68 billion in new economic activity, approximately 176,000 new jobs, and an increase of more than $2 billion a year in agriculture exports. It is no wonder that USMCA passed with overwhelming bipartisan support in both the House and the Senate.

USMCA brings particularly good news for the Commonwealth of Pennsylvania. In 2018 alone, Pennsylvania exported approximately $15 billion in goods to Canada and Mexico, and USMCA continues to open doors for our producers.

As Pennsylvania's number one industry, agriculture is vital to the health of both the economy and our residents, as our farmers provide the food, the fiber, the energy, the building materials, and all that we depend upon. With increased market opportunities, the future of the Keystone State is brighter than ever.

That being said, it is impossible to talk about the impact USMCA will have on Pennsylvania without talking about dairy. For far too long, our Nation's dairy producers have been subject to Canada's unfair class 6 and class 7 ultrafiltered pricing programs, limiting our export potential both into Canada and, quite frankly, into Third World countries as Canada floods them with dairy components of whey and lactose, proteins and powdered milk. Thanks to USMCA, this is a thing of the past.

A 21st century economy requires 21st century trade policy, and with USMCA, we are sending a crystal-clear message to our trade partners around the globe: America is open for business.

THE OBAMA ECONOMY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON LEE) for 5 minutes.

Ms. JACKSON LEE. Mr. Speaker, in 2016, I wrote this op-ed, ''Seven Years of Change You Can See and Feel.'' I wrote it in the backdrop of the election of President Barack Obama and his opening remarks and his inauguration that said: ''Today I say to you that the challenges we face are real. They are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met.''

Mr. Speaker, I include in the RECORD the op-ed I authored.

[From the Washington Examiner, Feb. 17, 2016]

SEVEN YEARS OF CHANGE YOU CAN SEE AND FEEL

(By Sheila Jackson Lee)

The morning of January 20, 2009 was one of the coldest days on record in Washington, DC. But this was nothing compared to the chill wind blowing through the American economy and body politic. The nation was facing economic challenges unseen since the Great Depression: Americans were losing their jobs at a frightening rate of 800,000 per month; the national unemployment rate had risen to 7.8 percent and would continue to climb until reaching its peak of 10.0 percent in October 2009.

For African Americans, the numbers were much grimmer: A jobless rate of 13.5 percent in January 2009 which would grow to 16.5 percent by the end of the year. And on top of this, tens of thousands of American families each month were losing their health insurance and their homes to foreclosure. The United States was still bogged down in the quagmire that was the Iraq War and young people by the thousands were being forced to defer or drop out of college because of lack of financial aid. And the average price of gas exceeded $4 per gallon.

It was against this backdrop that I watched from the inaugural platform as Barack Obama, surrounded by his radiant and beautiful wife, Michelle, and their two adorable daughters, rose to take the oath of office. After being sworn in as the nation's

44th president of the United States, Obama reassured an anxious but hopeful nation, saying:

''Today I say to you that the challenges we face are real. They are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met.''

Watching Barack Obama address the nation that day, spectators in attendance and viewers across the country and around the world understood they were witnessing a historic president, the first African American ever to hold the nation's highest office.

But more than being a historic president, Barack Obama's actions and leadership over the ensuing seven years would demonstrate that his would be a consequential presidency that changed America for the better.

His first and most pressing task was to rescue an economy on the brink of collapse. Working with the Democratic-controlled Congress, the American Recovery and Reinvestment Act was passed, which created 3.7 million jobs and saved the jobs of millions of teachers, firefighters, police officers and social service providers. The Recovery Act also cut taxes for working families, extended unemployment insurance, and expanded the Earned Income and Child Tax Credits, which disproportionately benefit African American families.

Seven years later the verdict is in on the economic plan put in place by President Obama and the Democratic Congress. The Recovery Act ended the Great Recession, transformed the economy from one hemorrhaging jobs to one that has created more than 16 million new jobs over a record 71 consecutive months. The national unemployment rate has dipped under 5 percent for the first time since President Clinton left office, the deficit has been cut by 71 percent and the Dow Jones stock market index topped 18,000 in 2015, an increase of 177 percent over where it stood the day President Obama took office.

As an added benefit, the average price of gasoline has been reduced from more than $4.11 per gallon to $1.80, the lowest price since before the tragedy of September 11. The seven years of Obama also effected policy change in the areas of criminal justice reform, health and education, national security and foreign affairs.

President Obama also made history by appointing two women to the U.S. Supreme Court, including the first Hispanic American to serve on the Court. He appointed the first African American man and woman to serve as attorney general and the first woman to chair the Federal Reserve Board.

In the area of foreign affairs and national security, President Obama ended the Iraq War, assembled and led an international coalition to impose sanctions on Iran that were so crippling that it was forced to the negotiating table. That yielded the Iran Nuclear Agreement that prevents Iran from ever attaining a nuclear weapon. And of course, as the world knows, because of President Obama's leadership, General Motors is alive and Osama Bin Laden is dead.

For seven years, President Barack Obama has represented our country with grace, integrity, honor, and distinction. He has provided consolation, hope, and healing in the face of unspeakable tragedies such as the massacre of innocent children at Sandy Hook, worshippers at Mother Emanuel AME Church in Charleston, spectators at the Boston Marathon, and mass shootings in Aurora, Colorado and Tucson, Arizona. He expressed and symbolized our joy and pride in the progress made over the last half century—and the distance we still have to travel—when he marched across the Edmund Pettus Bridge and addressed the multitude from the spot on the steps where the Rev. Martin Luther King, Jr. shared his dream for America's future.

So as President Obama serves the final year of his presidency, it is clear beyond doubt that he kept the promise he made to the nation seven years ago on that cold day in January when he said:

''Today I say to you that the challenges we face are real. But know this America: They will be met.''

They were more than just met; they were overcome under his leadership. And because of President Obama, today the United States is stronger, more prosperous and better positioned than ever to win the future.

And that is what makes his one of the most consequential presidencies in American history.

Ms. JACKSON LEE. In the years of Obama's service, we did, together, meet those challenges.

His first and most pressing task was to rescue an economy on the brink of collapse. Working with the Democratic-controlled Congress, the American Recovery and Reinvestment Act, the stimulus, was passed and created 3.7 million jobs and saved the jobs of millions of teachers, firefighters, police officers, and social service providers.

The Recovery Act also cut taxes for working families, extended unemployment insurance, and expanded the earned income and child tax credit, which disproportionately benefits African Americans. The challenge was met.

So any discussion of any excitement about the work of this administration creating an economy, it is an economy that was literally given to them because of the work of President Obama and the Democratic Caucus.

We have, now, $2 trillion extra in debt. We have the pending possibility of wars. We have the continuing downward spiral of issues that will impact this economy.

So, with this terrible tax cut, we were not given a strong economy. We paid an extremely high price: $1.9 trillion for tax cuts has done little for the economy. There is no such thing as a bump by this administration. Key indicators are saying that things, in actuality, are worse.

The Joint Economic Committee says unemployment was cut by more than half during the Obama administration, from a peak of 10 percent to 4 percent. The economy had experienced 76 consecutive months of job growth. The GDP growth was strong, an average of 2.6 percent in 11 quarters of the Obama administration. Growth in annual median household income was strong and trending upward, increasing $4,800 during those last 2 years. And the Chairman of the Council of Economic Advisors under George W. Bush states that the economy was in fine shape at the end of the Obama administration, despite what President Trump now asserts.

Mr. Speaker, I include in the RECORD the Joint Economic Committee article.

PRESIDENT TRUMP DID NOT CREATE THE STRONG ECONOMY; HE INHERITED IT

President Trump regularly claims the economy he inherited was a ''mess,'' but fact checkers have found this to false. Before Trump took office in January 2017, the economy had largely recovered from the Great Recession. Overall economic indicators were already strong and were trending stronger.

Unemployment had been cut by more than half during the Obama administration, from a peak of 10 percent to 4.7 percent.

The economy had experienced 76 consecutive months of job growth.

GDP growth was strong—an average of 2.6 percent growth in the last 11 quarters of the Obama administration.

Growth in annual median household income was strong and trending upward, increasing $4,800 during the last two years of the Obama administration.

Greg Mankiw, chairman of the Council of Economic Advisers under President George W. Bush, states that ''the economy was in fine shape at the end of the Obama administration, despite what President Trump sometimes asserts.''

THERE IS NO SUCH THING AS A ''TRUMP BUMP''—KEY ECONOMIC INDICATORS ARE THE SAME OR WORSE

Last week, the president said ''we have the greatest economy we've ever had in the history of our country.'' This claim did not make it by the fact checkers at The Associated Press. A few facts to keep in mind:

Monthly non-farm job growth has slowed in the first 35 months of the Trump administration compared to the last 35 months of the Obama administration—36,000 fewer jobs per month under Trump.

Average real GDP growth has been roughly the same for the first 11 quarters under Trump and the last 11 quarters of the Obama administration.

Growth in median annual household income was three times as great during the last two years of the Obama administration as during the first two years of the Trump administration.

PRESIDENT TRUMP'S SIGNATURE ECONOMIC POLICY—THE $1.9 TRILLION TAX CUT—HAS FAILED TO DELIVER THE PROMISED ECONOMIC BOOST

Trump promised the tax cuts would be like ''rocket fuel'' to the economy, but the effects have been underwhelming. The economic boost has been very small and short-lived.

GDP growth: Trump promised GDP growth as high as 6 percent. However, in the seven quarters before and after passage of the Republican tax law, GDP growth is exactly the same, averaging 2.5 percent.

Business investment: The Trump administration predicted a flood of business investment, which is critical to long-term economic growth. However, it actually has slowed since the tax cut, falling from an average annual growth rate of 4.6 percent in the seven quarters before enactment to a 3.5 percent annual rate in the seven quarters following the tax cut.

Household income: The administration predicted that the tax cuts would bring an increase of $4,000 to $9,000 or more per household. However, household income increased only $550 in the first year after the tax cuts went into effect.

Unemployment: It was at 4.1 percent before the tax cuts took effect, falling just over one-half of 1 percent since then.

WE PAID AN EXTREMELY HIGH PRICE—$1.9 TRILLION—FOR TAX CUTS THAT HAVE DONE SO LITTLE FOR THE ECONOMY

When it is fully implemented, the Republican tax law will add $1.9 trillion to the national debt, according to CBO.

In just the past two fiscal years, the annual deficit has increased from $666 billion in FY 2017 to $984 billion in FY 2019 (a 48 percent increase).

Despite a deficit forecast to exceed $1 trillion for the rest of the decade and beyond,

Trump administration officials continue to claim the tax cuts will pay for themselves.

In the long term, the vastly increased deficit likely will weigh down the economy and Republicans will argue that those deficits will require cuts to vital services and programs like Medicare and Social Security. In fact, the President admitted just last week he will look at cuts to those programs.

TRUMP'S SECOND MAJOR ECONOMIC POLICY—THE TRADE WAR—IS A SELF-INFLICTED WOUND, HURTING CONSUMERS, BUSINESSES AND THE ECONOMY

Trump's claim that China bears the entire cost of the tariffs is absolutely false—there are casualties on both sides of the trade war.

One analysis finds that the trade war with China had already cost 300,000 American jobs as of September 2019 and the number could rise to 450,000 by the end of 2019.

CBO estimated that the trade war reduced GDP by 0.3 percent by 2020.

The trade war hits consumers in their wallets and pocketbooks. The Federal Reserve Bank of New York estimated that tariffs on imports from China cost each U.S. household nearly $300 per year in 2018, and over $800 per year since with the additional 15 percent tariff on $200 billion worth of goods.

WHILE TRUMP CUTS TAXES FOR THE WEALTHY AND APPLAUDS THE STOCK MARKET, MILLIONS OF AMERICANS ARE STRUGGLING TO MAKE ENDS MEET

In a recent analysis, the Brookings Institution found that 53 million workers—44 percent of all workers—earn just $10.22 per hour or about $18,000 per year. $18,000 is not enough to raise a family on.

The president has begun talking about a blue-collar boom, but manufacturing has contracted in three of the last four quarters. The sector has added just 9,000 jobs in the past six months.

MOST OF PRESIDENT TRUMP'S CLAIMS ABOUT THE ECONOMY ARE FALSE OR HIGHLY MISLEADING

According to The Washington Post Fact Checker, Trump has made more than 1,500 false claims about the economy.

This is part of a broader pattern. Fact Checker has found that altogether Trump has made more than 16,000 false or misleading claims on all topics in his first three years in office.

Trump made half of those false or misleading claims in 2019—the pace of these claims is increasing.

Any statement the president makes about the economy has a good chance of being false or misleading.

Ms. JACKSON LEE. And so we have a challenge to try and recoup and recover, for hardworking Americans, a real economy, because it is frightening when we begin to start losing jobs.

Let me show how the trend went.

We were adding 270,000 jobs per month under President Obama. We are now adding an average of 191,000 jobs under this present administration. And it can be seen very clearly that the job growth is challenging.

We can also see that, when we were down in a slump on median household income, it was surging up because of the values and principles of the Obama administration working with the Democratic Congress.

Employment was down when Mr. Obama took office. We can see that it surged up; and then it began to go down, with respect to this administration, and turning red again. The economy, as I said, had been growing very well under President Obama.

The GOP tax scam led to a record-setting $1 trillion in stock buybacks, unlike what was represented to us, that that was going to create investment in this country.

We are now beginning to put forward some major legislation that deals with investment in our infrastructure, investment in public housing and affordable housing, because we realize what creates jobs. We create jobs when we invest back into the Nation. We do not create jobs when we take tax cuts and give them to the rich while everybody else suffers.

The GOP tax law encourages companies to send factories and jobs overseas. Under the GOP tax cut, income generated by American companies abroad face tax rates that are half the new top corporate rate of 21 percent.

By the way, corporations didn't ask for that low corporate tax rate. Some companies may be able to avoid taxes altogether on tangible investments made offshore.

The GOP tax law increases deficits, as I said earlier, by $1.9 trillion when we are facing major budgetary challenges driven by our aging population.

Finally, Mr. Speaker, I would say that there was nothing but a gift given to this administration by the hard work of the Obama administration.

Let us get back to investing in the American people. That is how we build the economy, not by snatching it away from them.

Mr. Speaker, the verdict is now in, and it leads to the inescapable conclusion that the Trump TaxScam has not accelerated the economy, rather it is a significant drag on the booming economy President Barack Obama bequeathed to his successor, the current occupant of the office.

Specifically, two points cannot be stressed enough.

First, President Trump did not create the strong economy; he inherited it.

Second, we paid an extremely high price—$1.9 trillion—for tax cuts that have done so little for the economy.

Mr. Speaker, most of President Trump's claims about the economy are false or highly misleading.

There is no such thing as a ''Trump bump''—key economic indicators are the same or worse.

The President's signature economic policy—the $1.9 trillion tax cut—has failed to deliver the promised economic boost and his second major economic policy—the trade war—is a self-inflicted wound, hurting farmers, consumers, businesses and the economy.

Mr. Speaker, those of us who were there remember well that the morning of January 20, 2009, which was one of the coldest days on record in Washington, DC.

But it was nothing compared to the chill wind blowing through the American economy and body politic because at that time the nation was facing economic challenges unseen since the Great Depression: Americans were losing their jobs at a frightening rate of 800,000 per month; the national unemployment rate had risen to 7.8 percent and would continue to climb until reaching its peak of 10.0 percent in October 2009.

For African Americans, the numbers were much grimmer, a jobless rate of 13.5 percent in January 2009 which would grow to 16.5 percent by the end of the year.

And on top of this, tens of thousands of American families each month were losing their health insurance and their homes to foreclosure.

And the average price of gas exceeded $4 per gallon.

It was against this backdrop that the new President of the United States, Barack Obama, rose to take the oath of office.

After being sworn in as the nation's 44th President, President Obama reassured an anxious but hopeful nation, saying:

''Today I say to you that the challenges we face are real. They are serious and they are many. They will not be met easily or in a short span of time. But know this America: They will be met.''

Because of the actions President Obama took, not to further the interests of himself but of the American people, these challenges were more than met and overcome and for that Barack Obama's presidency is regarded by historians as a consequential presidency that changed America for the better.

Mr. Speaker, before Trump took office in January 2017, the economy had recovered from the Great Recession and overall economic indicators were already strong and were trending stronger.

Unemployment had been cut by more than half during the Obama administration, from a peak of 10 percent to 4.7 percent.

The economy had experienced 76 consecutive months of job growth, the longest sustained period of growth in American history.

GDP growth was strong, average of 2.6 percent annually in the last 11 quarters of the Obama Administration and median household income growth was strong and trending upward, increasing $4,800 during in last two years of the Obama administration.

Even Greg Mankiw, chairman of the Council of Economic Advisers under President George W. Bush, had to admit that ''the economy was in fine shape at the end of the Obama administration, despite what the current President falsely asserts.

Mr. Speaker, I include in the RECORD an oped published on February 17, 2016 in the Washington Examiner, entitled ''Seven Years of Change You Can See and Feel.''

President Obama actually had a plan to tackle the economic woes that were affecting the American people.

Working with the Democratic-controlled Congress, the President signed into law the American Recovery and Reinvestment Act, which created 3.7 million jobs and saved the jobs of millions of teachers, firefighters, police officers, and social service providers.

The Recovery Act also cut taxes for working families, extended unemployment insurance, and expanded the Earned Income and Child tax credits, which disproportionately benefit African American families.

The Recovery Act ended the Great Recession, transformed the economy from one hemorrhaging jobs to one that has created over 16 million new jobs over a record 71 consecutive months.

The national unemployment rate has dipped under 5 percent, for the first time since President Clinton left office, the deficit has been cut

by 71 percent and the Dow Jones stock market index topped 18,000 in 2015, an increase of 177 percent over where it stood the day President Obama took office.

And, as an added benefit, the average price of gasoline has been reduced from more than $4.11 per gallon to $1.80, the lowest price since before the tragedy of September 11.

In short, Mr. Speaker, President Obama bequeathed a booming and vibrant economy to his successor, who promptly took actions to undermine it and explode the national debt.

Mr. Speaker, the GOP TaxScam was the wrong policy at the wrong time because it showered benefits on the top 1 percent large multinational corporations while doing little for everyday working Americans and Main Street small business owners.

GOP TaxScam also raises the nation's debt by $1.9 trillion at a time when the economy was already strong, and when we are facing major long-term budgetary challenges driven by our aging population.

And rather than devoting resources to wise investments in our workers and small businesses, the GOP TaxScam further burdens working families, endangers Americans' retirement security, and worsens our budgetary outlook.

Our long-term economic growth trajectory is unchanged and there is no sign of an investment boom.

Real wage growth for workers remains modest and factories and jobs are more likely to go overseas.

The federal deficit is soaring as corporate tax receipts plummet and the tax code is riddled with even more special-interest tax breaks and loopholes.

THE GOP TAXSCAM LED TO A RECORD-SETTING $1 TRILLION IN STOCK BUYBACKS

The GOP TaxScam delivered huge benefits to rich investors and CEOs through record-setting stock buybacks in 2018 while average workers struggle to pay for rising health care and living costs.

Stock buybacks do nothing to improve business operations or help workers.

THE GOP TAXSCAM SHOWERS BENEFITS ON THE WEALTHY AND LARGE CORPORATIONS WHILE DOING LITTLE FOR WORKERS AND MAIN STREET SMALL BUSINESSES

The GOP tax cut is heavily tilted toward the wealthy and corporations and exacerbates the stagnation of wages for the vast majority of workers and worsens income and wealth inequality.

The GOP tax law does nothing to help small businesses gain access to capital and grow their receipts.

Only 5 percent of small businesses pay taxes at the corporate level and most of the pass-through tax cuts go to the largest 2.6 percent of businesses.

THE GOP TAX LAW ENCOURAGES COMPANIES TO SEND FACTORIES AND JOBS OVERSEAS

Under the GOP tax law, income generated by American companies abroad face tax rates that are half the new top corporate rate of 21 percent.

Some companies may be able to avoid tax altogether on tangible investments made offshore.

This further incentivizes companies to move tangible assets, such as factories and machinery, overseas.

Rather than protecting workers and their families, the GOP tax law tilts the playing field against American workers.

THE GOP TAX LAW INCREASES DEFICITS BY $1.9 TRILLION WHEN WE ARE FACING MAJOR BUDGETARY CHALLENGES DRIVEN BY OUR AGING POPULATION

Even after accounting for any economic growth effects, the Congressional Budget Office (CBO) estimates the GOP tax scam increases deficits by $1.9 trillion over the ten years 2018 to 2028—hardly the "pay for itself' message we heard from the Administration and Republicans in Congress.

Our friends across the aisle promised the GOP TaxScam would significantly boost economic growth, spurred an investment boom, drove unemployment down to the lowest level since the 1960s, created jobs for millions of workers, and helped middle-class families keep more of their paychecks.

All of these claims have collapsed in the crucible of actual experience.

THE GOP TAXSCAM DID NOT SIGNIFICANTLY BOOST THE ECONOMY

In the seven quarters before and after passage of the Trump TaxScam, GDP growth is unchanged from the Obama economy, averaging 2.5 percent.

By 2023, the tax law's positive effect on economic growth will fade away entirely.

THE GOP TAXSCAM DOES NOT SPUR BUSINESS INVESTMENT

There is no evidence of an investment boom, which Republicans promised would be the key to unleashing unprecedented economic growth and wage gains.

Nonresidential business investment grew by less than 1 percent in the third quarter of last year, while business' orders for durable goods (another measure of investment) fell in December for the fourth time in five months.

Instead of encouraging investment, the tax cut triggered a record level of stock buybacks.

THE GOP TAXSCAM IS NOT THE CAUSE OF LOWEST UNEMPLOYMENT SINCE 1968

President Trump is coasting on an economic expansion—now the second-longest on record—that began under President Obama.

The law has not changed the unemployment trend.

The unemployment rate has fallen steadily since the end of the Great Recession.

THE GOP TAXSCAM HAS NOT CREATED JOBS FOR MILLIONS OF WORKERS

More jobs were created in President Obama's last two years in office than President Trump's first two years, a monthly average of 227,00 for Obama contrasted to an average of 191,000 for Trump.

Monthly non-farm job growth has slowed in the first 35 months of the Trump administration compared to the last 35 months of the Obama administration—36,000 fewer jobs per month under Trump.

The tax law also encourages companies to send factories and jobs overseas rather than protecting jobs at home.

THE GOP TAXSCAM IS NOT HELPING MIDDLE-CLASS FAMILIES KEEP MORE OF THEIR PAYCHECKS

There has been very little increase in private sector compensation or wages since the tax law passed.

Real wage growth continues to be disappointingly modest, and real bonuses increased by just 2 cents per hour between December 2017 and September 2018.

The law ignores the stagnation of working-class wages and worsens income and wealth inequality.

In fact, only 35 percent of the tax law's benefits in 2018 will go to the bottom 80 percent of households making less than approximately $150,000 per year.

EVEN THOUGH FEDERAL REVENUES HAVE RISEN, THE GOP TAXSCAM HAS CREATED A MAJOR REVENUE DEFICIENCY PROBLEM

Corporate tax receipts dropped an astounding 31 percent drop in 2018, with total receipts as a share of GDP falling to the lowest levels since the end of the Great Recession despite healthy economic growth and a tight labor market.

Revenue last year was 16.4 percent of the economy, almost two percentage points below the so-year average of 18.3 percent in years in which unemployment fell below 5 percent.

By contrast, spending as a share of GDP last year fell right at the historical average.

Predictably, the President and our Republican friends seeks to evade blame and responsibility for the fiscal mess and exploding debt they have created.

Instead of redressing the harm caused by the Trump TaxScam, Republicans resort again to their past practice of blaming the deficit on the entitlement programs such as Social Security, Medicare, SNAP, and veterans benefits and seek to slash these programs to the barebones.

For example the President sought to cut non-defense discretionary (NDD) programs by $1.4 trillion, including cuts to Medicare and Medicaid, reduce funding for SNAP by $220 billion or 22 percent, and deny infrastructure funding for cash-strapped state and local governments; and pile more hardships on struggling Americans with $327 billion in cuts to direct spending programs that safeguard basic living standards they need to get by.

The President is obsessed with dismantling and destabilizing health care for millions of Americans by making yet another attempt to "repeal and replace" the Affordable Care Act passed under the extraordinary leadership of President Barack Obama which provided health security to more than 20 million Americans.

Mr. Speaker, we are now entering Act III of the immorality play we predicted the President would write.

Act I was the cutting of taxes for the rich; Act II was the inevitable exploding of the deficit we predicted would result and our Republican friends denied would ever happen.

And now we have Act III, in which Republicans claim to have newly rediscovered their horror over the deficits created by their fiscal irresponsibility and insist that the mess they created but be cleaned up by slashing investments in the programs relied upon by the 90–95 percent of Americans who were made worse off by the GOP TaxScam.

The President should be embarrassed and ashamed of his economic stewardship and thankful every day to President Obama for tackling and solving the major economic challenges facing Americans.

OPPOSITION TO IMPEACHMENT TRIAL

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. MASSIE) for 5 minutes.

Mr. MASSIE. Mr. Speaker, I rise today in opposition to the marathon impeachment sham trial currently underway and occupying the Senate's valuable time.

Frankly, the American people tuned out a long time ago. They find the proceeding simply boring, and rightly so. In fact, a recent focus group of Democrats said they don't even care about this impeachment trial. They are not interested, and they are ready to move on.

The truth is that, despite all of the repetitive accusations of coverup, quid pro quo, he said, she said, et cetera, et cetera, this is nothing more than an attempt at a soft coup against President Trump by the people who still can't get over the fact that he beat Hillary Clinton fair and square at the ballot box.

Just listen to some of the recent rants made by the impeachment managers. As one manager says: ''The President's misconduct cannot be decided at the ballot box, for we cannot be assured that the vote will be fairly won.''

What an insult to American voters. If we can't trust the American voters, who can we trust? Does he think they are gullible? Does he think he is better than them?

Or take the comments of another impeachment manager, a Democrat. He said, referring to President Trump: ''He is a dictator. This must not stand, and that is another reason he must be removed from office.''

These are insulting to the American public who chose this President over Hillary Clinton.

But these are the types of comments you would expect in a Third World country in which military coups are a common occurrence, not in the United States of America where we honor the votes and choices of the American people.

President Zelensky and President Trump both said there was no pressure or coercion, and the call transcripts have been released to the public to prove this.

But even if there had been pressure, if withholding foreign aid is an impeachable offense, why did Joe Biden threaten to do it?

As I have stated repeatedly, if the bar of high crimes and misdemeanors has been brought down so low to include President Donald Trump's so-called abuse of power, then Joe Biden should be charged for his actions in Ukraine. Instead, he gets a pass.

This impeachment trial is simply a farce. But it is an expensive and time wasting one foisted on the American people by those who do not have our country's best interests at heart.

Even the Speaker of the House, who is a Democrat, said, if there is going to be an impeachment trial, if there is going to be impeachment proceedings, it should be bipartisan, it would have to be bipartisan.

Mr. Speaker, the only thing bipartisan about this sham is the opposition to it. Democrats joined every Republican to vote against it in the House. I expect we are going to see similar results in the Senate, a bipartisan opposition to this partisan sham.

I look forward to the Senate bringing this farce to a speedy conclusion.

END THE USE OF TOXIC MILITARY BURN PITS

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. RUIZ) for 5 minutes.

Mr. RUIZ. Mr. Speaker, I rise today to address one of the most pressing health threats facing veterans across this Nation: exposure to burn pits.

Burn pits are literal pits, sometimes 10 acres large, used by the military to burn trash, medical waste, jet fuel, batteries, even human waste. As you might imagine, this creates large plumes of toxic black smoke, which can have terrible health effects for anyone exposed.

Our servicemembers and veterans who were exposed to burn pits are developing severe, debilitating pulmonary diseases like pulmonary fibrosis and constricted bronchiolitis, leaving them oxygen dependent. And young veterans are dying from rare cancers of the brain, pancreas, blood cells, and other organs.

This means that many of our servicemembers survived the battlefield but only become delayed casualties of war at home, dying due to lung and pulmonary illnesses, from cancers, from autoimmune diseases from their burn pit exposures.

If we don't act now, they will be resigned to the same fate as our Vietnam veterans exposed to Agent Orange, who waited up to 30 years to get the help they needed. For many, it was too late.

Our veterans cannot wait. It is my objective to end the use of toxic military burn pits once and for all and give servicemembers and veterans the care they need. That is why, today, I urge a vote on two bills that would go a long way to address this critically important issue:

H.R. 4574, the Veterans' Right to Breathe Act, which would establish presumption of service-connected exposure to burn pits for nine evidence-based pulmonary diseases, including chronic bronchiolitis and others; and

H.R. 4137, the Jennifer Kepner HOPE Act, which would make veterans exposed to burn pits eligible for low-cost healthcare through the Priority Group 6 under the Veterans Health Administration.

□ 1015

These bills are part of the comprehensive plan to end the use of burn pits, educate physicians and veterans on their health effects, get veterans and servicemembers exposed to burn pits the healthcare and benefits they need, and continue research to fully understand the health impacts posed by burn pits.

We cannot let burn pit exposure become this generation's Agent Orange. We must act now for veterans and for their families.

CBP DIRECTIVE FALLS SHORT

Mr. RUIZ. Mr. Speaker, I rise today because children and families in CBP custody continue to be without basic humanitarian standards of care.

Late last year, Customs and Border Protection put out a directive outlining its ''enhanced medical support efforts,'' with the objective of mitigating risks for people in CPB custody along the southwest border. But their directive for addressing medical needs falls short of even basic humane treatment to prevent the heartbreaking conditions I saw when I visited the southern border: people piled on top of each other in cold, windowless, concrete rooms, crowded with so many bodies you couldn't even see the floor; open toilets in crowded cells; and visibly sick children coughing on one another.

The conditions I witnessed were inhumane and inconsistent with our American values and our moral conscience, and the CBP directive does nothing to address them.

The directive does not include, for example, pregnant women, the elderly, or disabled individuals as vulnerable populations who need priority screening. The CBP medical directive does not address humanitarian standards for water, sanitation, hygiene, shelter, or food and nutrition, nor does it even set standards for private, safe, clean, and reliable toilets with proper waste disposal.

Last year, I wrote the House-passed H.R. 3239, the Humanitarian Standards for Individuals in CBP Custody Act. This bill sets basic public health standards for people in CBP's care, such as health screening priorities, nutrition, food standards, water, sanitation, hygiene, and reporting requirements. It makes sure individuals have essentials, such as toothbrushes, diapers, and baby formula.

Because this bipartisan bill was blocked from consideration in the Senate, these standards of care for children and families are not currently law, and the recent CBP medical directive falls short. It fails to outline proper humanitarian standards of care.

This is why the Senate must take up and pass the bipartisan bill, the Humanitarian Standards for Individuals in CBP Custody Act, to ensure CBP's treatment of children and families is consistent with our American values and the principles of basic human dignity and prevent children from dying under the custody and responsibility of CBP.

CELEBRATING HICKORY'S 150TH ANNIVERSARY

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from North Carolina (Ms. FOXX) for 5 minutes.

Ms. FOXX of North Carolina. Mr. Speaker, I rise to celebrate the 150th anniversary of Hickory, North Carolina.

In 1870, Adolphus Shuford founded Hickory Tavern, which would later become the city of Hickory. Originally, it

featured seven businesses, seven manufacturing plants, and had a population of 330 people.

In the 1800s, Hickory was a primary trading center along the Western North Carolina Railroad, and it grew into one of the largest hubs for business manufacturing and textiles in the Southeast United States.

Today, Hickory is home to more than 40,000 people. It holds data centers operated by the world's largest technology companies, and over 40 percent of the world's fiber optic cable is manufactured there.

Hickory's history goes even beyond its industrial roots. Some other noteworthy features are: the Hickory Motor Speedway, one of the most legendary short tracks in the history of American stock car racing; the local community college, Catawba Valley Community College, which is providing some of the most excellent education offered anywhere in the country to the citizens of the area; Lenoir-Rhyne University, one of North Carolina's premier schools, which was founded in 1891; a wonderful art center; and a Minor League Baseball team, the Hickory Crawdads, which was founded 25 years ago.

While the city continues to grow, its historical landmarks still stand as a testament to its rich history. From the Propst House to Maple Grove, Union Square to the Henry River Mill Village, Hickory's legacy as a leader in textiles manufacturing and trading is ever-present.

Hickory has played a pivotal role in North Carolina's history, and it continues to make a sizeable impact on North Carolina's economy.

Mr. Speaker, I am proud to represent Hickory, North Carolina, and I am certain it will continue to prosper and celebrate many more significant milestones in the future.

IMPEACHMENT TRIAL NEEDS WITNESSES

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR) for 5 minutes.

Ms. KAPTUR. Mr. Speaker, the impeachment of President Donald Trump has forced our Nation into a constitutional crisis.

On the one hand, Democrats have led a good faith effort to discover the truth and hold President Trump and his administration responsible for their destructive and corrupt actions in Ukraine. While on the other hand, Republicans have refused outright to meaningfully engage in the fact-finding process.

In our House, Republicans have ignored the fact that Russia has invaded Ukraine, a sovereign nation. Ukraine is a scrimmage line for liberty in Europe today, a continent whose liberty we restored and paid a deep price for it.

Despite overwhelming evidence in the Senate, Republicans have complained they have learned nothing new from the impeachment trial. Yet, they have voted over 10 times to block new evidence and witnesses.

For instance, it is clear that President Trump's former National Security Advisor John Bolton's testimony has relevance to the Senate's efforts to find the truth—the truth. Bolton has first-hand knowledge of the administration's duplicitous actions in Ukraine and President Trump's malintent. Yet, Republicans in the Senate have refused to subpoena Bolton, despite his statement that he is willing to testify.

Additionally, this week, The New York Times reported that President Trump told his former National Security Advisor John Bolton that he wanted the $391 million in security assistance to Ukraine frozen—a nation at war—until Ukrainian officials agreed to carry out investigations into Democrats and the Bidens.

According to a manuscript written by Bolton, such a claim is relevant and warrants immediate investigation by Congress. Yet, Politico reported today that Republican leadership in the Senate remains opposed to additional witnesses, including Bolton, though dissent is emerging in their ranks.

Mr. Speaker, I feel strongly that if the Senate fails to allow additional witnesses relevant to the impeachment trial and subsequently votes to acquit, such inaction will set a dangerous and perhaps even irreversible precedent, one that allows the executive branch to ignore congressional oversight with impunity.

Today, President Trump has refused to comply with any congressional subpoenas obstructing justice, even going a step further as to block any and intimidate executive branch officials from cooperating with the House investigation.

An executive branch unaccountable to Congress, the branch of government most connected with the American people, is a dangerous prospect. We cannot allow this to become the new norm.

Ours is a nation of laws, not men or women. Laws protect us. The balance of power between our three branches of government at the local, State, and Federal levels is the only protection we have from ourselves.

Our Founders wrote into our Constitution the means to hold a lawless President accountable and remove him from office. The rule of law is sacred, and that is why no one is above the law.

Regardless of anyone's opinions of President Trump, personal affections are not the issue. The issue at hand is independent of party or politics. The question is: Who among us will sit silent and allow the voice of the people to be trampled, and who will rise up to keep the Presidency accountable to our Republic?

Mr. Speaker, I have had the privilege to serve alongside public servants in both parties. While I have had disagreements with Republican colleagues on policy, I remain immensely thankful for their bipartisanship in so many ways and willingness to engage on issues to strengthen our Nation's national security and improve the lives of working people, calling many Republicans, actually, my friends.

But that is why, Mr. Speaker, I am so disappointed today. My Republican colleagues have so far failed to act in defense of our democracy. They seem to live in an alternate reality from our own.

The American people have made it clear they want additional witnesses to ensure a fair trial. They want to hear what Ambassador Bolton and other witnesses have to say. Senate Republicans should let them testify under oath.

Finally, I enter into the CONGRESSIONAL RECORD the words of Dr. Daniel Rapport, a constituent and a distinguished medical doctor at the University of Toledo Medical Center, urging the Senate to convict President Trump.

His words: ''The impeachment of President Trump has forced our Nation into a constitutional crisis. If the Senate fails to hold President Trump accountable, as is its constitutional duty, then a dangerous precedent will be set, one that empowers the executive branch to ignore congressional oversight with impunity.

''Combined with the increasing power of the executive in recent decades, in addition to the President's veto power, the capacity of the legislative branch to rein in the executive will be ever more limited, weakening the American's people will in their own government.

''This is an outcome that must be avoided at all costs. The Senate alone has the power to do what is right to preserve the balance of power between the legislative and executive branches. The Senate must vote to convict President Trump.''

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

PAIN IS THE PRICE OF AMERICA'S HEALTHCARE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. ABRAHAM) for 5 minutes.

Mr. ABRAHAM. Mr. Speaker, the $3 trillion healthcare industry continues to crush the middle class. Americans are paying more than ever and getting ever less as they struggle to access care. The cost of care for both workers and employers is outpacing wage growth.

What drives the cost of care in America today is lack of transparency, consolidation, and overregulation that is leading to administrative glut. The time is now to confront these cost drivers. President Trump has addressed these exact issues in recent months.

Obtaining coverage has allayed the fears as costs rise, yet coverage itself keeps costs hidden and high. Our opaque, third-party payment system has obscured the true cost of receiving care from patients and physicians alike.

Prices are rising with no end in sight. We see examples of it every day, people who believe they are covered because they have insurance only to find out that, in some cases, they are just as vulnerable as those who are uninsured. The current system allows people who have insurance to end up paying more for a CT, for example, than if they had just paid cash.

This process and complexity of billing can allow this to happen. This lack of transparency in our healthcare system is a culprit, and it harms patients, physicians, pharmacists, and others who rely on it.

Consolidated hospital systems, the completely unregulated pharmaceutical middlemen, PBMs, and the insurance companies that are tied to both hospitals and PBMs have been increasingly profiting. These corporate giants have no motivation to offer transparency and discounts.

Costs remain deliberately hidden until the patient receives a bill. The number of healthcare administrators has grown more than 4,000 percent between 1970 and 2020. Consequently, spending on healthcare has increased 3,200 percent.

Is there any other conclusion than to tie rising costs to administrative glut? No. Administrative glut is largely to manage the regulations that our government has put in place, regulations that make healthcare more complex than the tax code. It is past time to cut the glut.

Medicine's malignant mergers, both vertical and horizontal, are creating behemoth healthcare systems like CVS, where insurance companies, PBM, pharmacy, and drive-by clinics are all together. This leads to patients being forced to go somewhere to receive their drugs and, in some cases, are told that they have to purchase brand-name drugs even when the generic equivalent is available. It is not about what is a better deal for the patient but what is a better deal for the PBMs and their ilk.

Americans are paying more than ever for coverage that limits their choices and doesn't always provide them access to care. The bloated bureaucratic special interests must be unveiled and Americans must educate themselves on cost drivers to forge sustainable solutions.

We need to focus on returning to a patient-centered healthcare system. Some people are starting to do this with things like direct primary care, which provides the patient with an array of services for a fixed cost that is actually transparent.

□ 1030

We need a system that allows patients to choose and fosters competition. The only way we are going to get a system like that is by shining a light on the shadows of our healthcare system. The answer is not more government, not more regulation but, rather, a concerted effort by Congress to bring our healthcare system out into the sunshine and to allow our sunshine to shine on these hidden practices; these practices are actually causing our prices to go up. No longer can we allow patients to bear the brunt of this complicated and very, very complex system.

The time is now to follow healthcare's money trail, unwind existing laws, or enact new laws that demand cost transparency, cut administrative glut, stop consolidation, and bring regulatory relief. Your health depends on it.

CONGRATULATING THE CAMP HILL LIONS GIRLS SOCCER TEAM

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. PERRY) for 5 minutes.

Mr. PERRY. Mr. Speaker, I rise today to offer my heartfelt congratulations to the Camp Hill Lions Girls Soccer Team for their victory at the PIAA Class A State Soccer Championship, and for their excellence throughout their undefeated 2019 season.

Led by Coach Jared Latchford—who, to no one's surprise, was just named the Pennsylvania Soccer Coaches Association Girls Class A Coach of the Year—the Lions dominated the season, achieving a stunning overall record of 25 wins, zero ties, and zero losses.

This is the Lions' second appearance at the state championship in the last 3 years. They took an early lead in their contest against Shady Side Academy and held it throughout the game.

Aggressive and selfless offense, vigilant defense, and stellar goalkeeping earned the Lions a 2–0 victory and their first State championship trophy in school history.

These amazing athletes are the epitome of remarkable dedication and discipline, outstanding skill, exceptional sportsmanship, and an unyielding team spirit. Their dedication to excellence, to say the least, earned them this championship.

On behalf of Pennsylvania's 10th Congressional District, I congratulate the Camp Hill Lions for their incredible performance. We are proud of you.

HONORING THE LEADERSHIP AND CAREER OF SERGEANT JOHN AITON

The SPEAKER pro tempore. The Chair recognizes the gentleman from South Carolina (Mr. NORMAN) for 5 minutes.

Mr. NORMAN. Mr. Speaker, it is my honor to recognize the exemplary leadership and career of Sergeant John Aiton, a native of the Palmetto State, born and raised in my hometown of Rock Hill, South Carolina.

Upon graduating from Rock Hill High School, John Aiton attended East Coast Bible College, where he received a bachelor of arts in pastoral ministries, later earning a master's degree in biblical interpretation from Pentecostal Theological Seminary.

After a brief teaching and coaching stint at the Heritage Academy in Fort Mill, Sergeant Aiton joined the Rock Hill Police Department. John always had a special place in his heart for helping the community, so after 2 years of patrol work, he left to join the juvenile division as a DARE instructor.

During his work early on, he was promoted to special investigator, and was selected to serve on the police force's first crisis negotiating team, forming the department's neighborhood watch program.

Because of his dedication to the local community, he began to serve as the department's chaplain and continued work with the Worthy Boys and Girls Camp. This ultimately led him to his best-known role, a school resource officer for 22 years; 11 years at Northwestern High School, followed by another 11 years at South Pointe High School.

Throughout his distinguished career, Sergeant Aiton went above and beyond his job to protect and serve the community. Due to his service, he was promoted to sergeant of the Community Service Division, but because of his commitment to student safety, he relieved himself of those duties.

John is a truly inspirational citizen and a community servant whose pride and joy is found in protecting students.

After a distinguished career, Sergeant John Aiton retired from the force in June of 2019. It is truly an honor to recognize and congratulate Sergeant John Aiton on his well-deserved retirement. Rock Hill could not have asked for a better, selfless role model for our community.

In the words of Winston Churchill, who made famous a quote when Great Britain was about to be under siege, he said:

> There will be a time when doing your best is not good enough. You must do what is required.

Sergeant Aiton did what was required to make a true difference.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 35 minutes a.m.), the House stood in recess.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TRONE) at noon.

PRAYER

Rabbi Avraham Hakohen ''Romi'' Cohn, Congregation Ohr Yechezkel, Brooklyn, New York, offered the following prayer:

Almighty, open my lips. May the words of my mouth declare Your praise. With profound humility and deep appreciation, I stand before You.

As a young boy of 13 years, I was condemned to be dead, to be murdered along with my entire family, including my 3-year-old little sister, by one evil man, may his name be erased forever. But my life was spared. I was saved by my Father, by You, O Lord, the Father of the Universe, who brought me to the shores of this beautiful country, the United States of America, the land of the free, where I found a safe and new home.

As I stand before you on the 75th anniversary of the liberation of the Auschwitz death camp, I offer humble words of praise and gratitude to the Almighty. Blessed are You, King of the Universe, who has granted me life and sustenance to this day. Amen.

May You, Lord, accept with mercy our prayers for our country; for our President, Donald Trump; our Vice President, MICHAEL PENCE; my Congressman, MAX ROSE; and all his noble colleagues.

O Mighty King of the Universe, as Your humble servant, I bestow this blessing upon Your children. May the Lord bless you and protect you. Amen.

May the Lord deal kindly and graciously with you. Amen.

May the Lord bestow His favor upon you and grant you peace.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. LOUDERMILK) come forward and lead the House in the Pledge of Allegiance.

Mr. LOUDERMILK 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.

WELCOMING RABBI AVRAHAM HAKOHEN ''ROMI'' COHN

The SPEAKER pro tempore. Without objection, the gentleman from New York (Mr. ROSE) is recognized for 1 minute.

There was no objection.

Mr. ROSE of New York. Mr. Speaker, I rise today to recognize Rabbi Romi Cohn, a leader on Staten Island and a dear, dear friend.

Rabbi Cohn has dedicated his life to Jewish culture and heritage and built a renowned career as a mohel in New York City for over 25 years. I am especially honored to welcome Rabbi Cohn this week as we remember the 75th anniversary of the liberation of Auschwitz.

Rabbi Cohn's career is merely a continuation of a lifetime of fighting for the Jewish faith. His early life was uprooted by the rise of the Nazi Party, their invasion of Czechoslovakia, and the outbreak of World War II. Under Nazi rule, he saw the Hitler Youth attack his father in the street.

When war broke out, he joined the partisans fighting Nazi tyranny. At 15 years old, Romi was the youngest member of the Czechoslovakian partisan forces. Among other feats, he helped save 56 Jewish families escape the horrors of the Holocaust.

He fought with the partisans until the end of the war and then went in search of his own family. Of his parents and six siblings, only his father and two sisters had survived.

Rabbi Cohn saw how a democracy can be corrupted into a fascist dictatorship and what happens when anti-Semitism is allowed to fester.

Sadly, across this country, we see an alarming rise in anti-Semitism and hatred. Rabbi Cohn's legacy reminds us never to accept bigotry, not when we see it in the street, not when we saw it in the Halls of Congress, not when we see it anywhere. Our freedoms are not free. We must fight for them or risk losing them.

Rabbi Cohn is a model and example for all of us to follow, and I thank him for his extraordinary life of service.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

SUPPORT COMPREHENSIVE CREDIT ACT

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of the Comprehensive CREDIT Act, which we will be considering very soon. It will help bring much-needed accountability to credit reporting agencies and protect consumers from fraud and abusive lending.

Far too often, I hear of Rhode Islanders who have suffered as a result of credit reports with inaccurate or adverse information. The impacts are serious. They can prevent an individual from getting a job, taking out a mortgage, or acquiring student loans that they need to go to college. Yet, when they need to dispute an error, credit reporting agencies make it near impossible.

Mr. Speaker, the system is broken, and the Comprehensive CREDIT Act will provide long-overdue reforms to address these systemic issues. This bill will ensure Americans have the information they need to protect themselves from fraud; opportunities and a mechanism to dispute any errors, and to get them fixed; and protection from predatory lenders.

Mr. Speaker, I am proud to support this bill, and I thank Congresswoman PRESSLEY and Chairwoman WATERS for bringing it to the floor later today.

RECOGNIZING STUART MACVEAN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I am grateful to recognize Stuart MacVean of Aiken, president and CEO of Savannah River Nuclear Solutions, for being honored as a 2020 CEO Who ''Gets It'' by the National Safety Council's Safety and Health magazine.

This award is presented to those who go the extra mile through risk reduction, performance measurement, safety management solutions, and employee engagement—safety first.

Stuart has made keeping his employees safe and healthy a top priority. His dedication has resulted in successful site mission operations for support of our Nation's nuclear complex.

Stuart has been recognized by his local community. This month, I was present when Stuart was named Man of the Year for his leadership, community impact and involvement, and integrity by the Aiken Chamber of Commerce, led by President David Jameson and Chair Julie Whitesell, succeeding Pastor Paul Bush.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism with the leadership of President Donald Trump.

PRAISING DONARI JOY MOSBY

(Mr. PAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, I rise today to celebrate the kindness and generosity of a rising star in my district, Donari Joy Mosby. Ms. Mosby is a senior at County Prep High School in Jersey City, New Jersey.

Mr. Speaker, 7 years ago, she made it her goal to select socks to help the homeless residents stay warm during the winter. She started with a modest goal of 250 pairs of socks. When she exceeded that, she raised the number every single year.

This year, she donated more than 5,700 pairs of socks to a local community center on Dr. Martin Luther King Drive in Jersey City.

In 7 years, Ms. Mosby has donated 21,883 pairs of socks to help the homeless of my district. She called her campaign the Joy of Sox and wrote that socks are a simple and powerful way to show love to someone going through difficult times.

I agree, and I think her efforts and commitment to charity deserve to be praised.

RECOGNIZING NATIONAL SCHOOL CHOICE WEEK

(Mr. LOUDERMILK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOUDERMILK. Mr. Speaker, I rise today in recognition of National School Choice Week and the powerful impact that putting education choice in the hands of families can have in the lives of students, both in Georgia and across America.

Every child is a special gift from God, unique in their learning styles and capabilities. When it comes to their education, the options available to students and their families should not be limited by mandates from Washington, D.C.

It is also an unfortunate reality that opportunities for a quality education are not the same in every ZIP Code. Parents should have flexibility when choosing the best school setting to fit the specific needs of their children.

Whether it be through traditional public schools, charter schools, private schools, homeschooling, or vouchers, the decision about where to go to school should be made as close to the student as possible.

When we empower families to choose the educational options best suited for their sons and daughters, we give them the opportunity to thrive and to become the next generation of leaders in their families, churches, and communities.

Mr. Speaker, I am proud to lend my voice in support of school choice, especially during National School Choice Week.

HONORING EULOGIO ACEVEDO

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Mr. Speaker, I rise to honor Eulogio Acevedo, who passed away earlier this month.

Those of us who knew Mr. Acevedo will remember him as a dedicated family man, a leader in the business community, and a relentless champion for social justice. Born in the Dominican Republic, Mr. Acevedo made his home in Providence, Rhode Island, along with his beloved wife of 30 years, Maryelyn.

Mr. Acevedo lived the American Dream. An engineer by trade, he owned and operated his own construction company for more than two decades. He raised five children and lived to celebrate the births of four grandchildren.

Most important of all, Mr. Acevedo gave back to the country that gave him so much. He was an active community leader in Providence and a political legend, a gentle but strong man who helped anyone in need.

Mr. Speaker, I am thankful that I had the opportunity to know this great man. He was a dear friend to me. Our city and our State will miss him deeply. May he rest in peace.

MARKING ANNIVERSARY OF THE ''CHALLENGER'' TRAGEDY

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, yesterday marked the anniversary of the *Challenger* space shuttle explosion.

Mr. Speaker, 34 years ago, President Ronald Reagan addressed the Nation from the Oval Office, mourning with the entire country but paying special attention to the Nation's young people, telling them: ''The future doesn't belong to the fainthearted; it belongs to the brave.''

Today, those young people have become the men and women who have taken up the mantle of space exploration, who probe the outer limits of our solar system and even join NASA to explore space for themselves. President Reagan's words are as true for these men and women as they were for the *Challenger* crew.

As we look back on the tragedy of the *Challenger*, we must also look ahead. Let us recommit ourselves to space exploration by empowering the men and women who study it. We can honor our past by making space exploration a part of our future.

□ 1215

IT IS TIME TO END MIGRANT PROTECTION PROTOCOLS

(Ms. ESCOBAR asked and was given permission to address the House for 1 minute.)

Ms. ESCOBAR. Mr. Speaker, today marks the 1-year anniversary of the implementation of the abhorrent Migrant Protection Protocol program, or MPP, which forces vulnerable asylum seekers to remain in Mexico for their U.S. court dates.

MPP is currently implemented at seven ports of entry along the U.S.-Mexico border, including in my community, El Paso, Texas, where over 18,000 asylum seekers have been made to wait in Ciudad Juarez, Chihuahua.

During my time in Congress, I have brought a number of my colleagues to the border to see our Nation's immigration challenges firsthand. A number of them joined me last July, when we crossed the border to visit with some of the families impacted by the program. We heard about their journey to the U.S., the dangers they face if they return home, and what it takes to survive day-to-day in Mexico, a country that is not their own. We heard that obtaining legal counsel is nearly impossible, hindering due process.

This administration is making it as hard as possible for these families to obtain asylum in an effort to deter them from coming to the U.S. in the first place, because cruelty is the point.

I urge my colleagues to cosponsor H.R. 2662, the Asylum Seeker Protection Act, to defund this unlawful, abhorrent program.

TWO DEFINITIONS OF PRODUCTIVITY

(Mr. MEUSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEUSER. Mr. Speaker, there are different definitions of productivity at the two ends of Pennsylvania Avenue at this point in time.

Here at the Capitol, Democrat leadership seems to confuse activity with accomplishment, spending years—years—trying to impeach and remove a duly-elected President.

At the White House, just this week, President Trump delivered two major accomplishments, a Middle East peace plan and the signing of the USMCA.

The President's two-State peace agreement with Israeli leadership protects Israel's security and ensures Palestine has a prosperous future as long as it too seeks peace. It is the product of compromise and is a promising solution for a long-unstable region.

The USMCA, just signed earlier today, opens new markets for American goods, levels the playing field for North American trade, and creates jobs nationwide. It is great for our country and it is great for Pennsylvania.

As was stated very well earlier this week: ''Imagine if all the energy from this impeachment was used to solve the problems of the American people.''

RECOGNIZING THE WINNER OF WASHINGTON'S SEVENTH DISTRICT CONGRESSIONAL APP CHALLENGE

(Ms. JAYAPAL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JAYAPAL. Mr. Speaker, I rise today to recognize Franklin High School student and Burien resident, Abigail Batinga, as the winner of the Washington's Seventh District Congressional App Challenge.

My office this year received a record number of submissions, highlighting the incredible work of teachers across my district in advancing STEM education for all students.

Abigail's app, which is called Climate Now, is a collaborative platform that helps users create, facilitate, and participate in environmental projects in their communities.

Abigail recognized the need for a tool to increase the efficacy, organization, and participation in efforts to solve our climate crisis locally, due to her involvement in sustainability and environmental justice issues in Burien and South Seattle.

Abigail's focus on addressing a public goal serves as a model for all of us to use our creativity, skills, and knowledge to benefit the greater good.

I am so proud of Abigail, and I congratulate her.

BE LIKE AMERICA, DON'T BE LIKE SAUDI ARABIA

(Mr. TED LIEU of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TED LIEU of California. Mr. Speaker, this morning, Donald Trump wrote on Twitter: ''Remember Republicans, the Democrats already had 17 witnesses. We were given none. Witnesses are up to the House, not up to the Senate.''

Both of his statements are false. In the House, there were multiple Republican-requested witnesses that testified under oath, some of them on national TV, and they were cross-examined by both Democrat and Republican committee members.

In addition, under our Constitution, it is the Senate that runs trials. And Americans understand that in a trial you have witnesses and documents. In fact, a recent poll showed that 75 percent of Americans want the U.S. Senate to call in witnesses, witnesses like John Bolton.

You know who runs trials without witnesses? Saudi Arabia.

So my message to the U.S. Senate, controlled by Republicans, is very simple: Be like America. Don't be like Saudi Arabia.

RECOGNIZING 100TH ANNIVERSARY OF RATIFICATION OF 19TH AMENDMENT AND 200TH BIRTHDAY OF SUSAN B. ANTHONY

(Mr. MORELLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORELLE. Mr. Speaker, in addition to marking the 100th anniversary of the ratification of the 19th Amendment, this year also marks the 200th birthday of Susan B. Anthony, a pioneer of the women's rights movement who made her home in my district in Rochester, New York.

As a Nation, we have come so far in the fight for equality, but we continue to face new barriers that threaten to roll back the progress we have made. That is why at next week's State of the Union Address, I am so proud that I will be joined by Deborah Hughes, president and CEO of the National Susan B. Anthony House & Museum in Rochester, and a passionate advocate for women everywhere.

Deborah's work reminds us that the words of Susan B. Anthony still ring true today; we must ''organize, agitate, educate'' until every American has full equality.

I am so grateful that Deborah will be joining me next week, and I will continue to stand alongside her and work together to support and empower women everywhere.

IMPROVE AND STRENGTHEN SOCIAL SECURITY

(Mr. HIGGINS of New York asked and was given permission to address the House for 1 minute.)

Mr. HIGGINS of New York. Mr. Speaker, 80 years ago this week, Americans began receiving Social Security benefits. Social Security is a highly popular and successful program with a trust fund exceeding $1.9 trillion.

With rising life expectancy since the program's inception, adjustments need to be made to improve and strengthen Social Security for future generations.

The Social Security 2100 Act, sponsored by Congressman JOHN LARSON of Connecticut, will increase benefits for all current and future beneficiaries; will improve cost-of-living-adjustments to keep up with real inflation; will cut taxes for millions of beneficiaries; and improve and strengthen Social Security through the 21st century and beyond.

I urge passage of the Social Security 2100 Act.

AMERICA'S DEEP ECONOMIC UNCERTAINTY

(Ms. SCANLON asked and was given permission to address the House for 1 minute.)

Ms. SCANLON. Mr. Speaker, I rise today in support of families in my district who are experiencing deep economic uncertainty.

A report issued late last year highlighted that hardworking families in my district, especially those with children, are struggling with rising costs and stagnant wages. The report is called ''Underwater'' because even as Wall Street rides high, American families are struggling to stay afloat. In fact, people and small businesses in my district are suffering as a result of this administration's economic policies, its trade wars, and corporate giveaways.

At year end, a typical working family earning $70,000 a year is likely to be over $2,000 in debt after paying for childcare, housing, and healthcare, and that is before they start saving for college or retirement.

Forty percent of the families in my district make less than that. For these families, the American Dream of providing a better life for their children slips further from their grasp every day.

Instead of corporate welfare, our economic policies must support working, middle-class families in order to create healthier and more prosperous communities for everyone.

RECOGNIZING THE SERVICE OF PETER VOLKMANN

(Mr. DELGADO asked and was given permission to address the House for 1 minute.)

Mr. DELGADO. Mr. Speaker, I rise today to recognize Chatham Police Chief Peter Volkmann, my guest for the State of the Union Address. Chief Volkmann has been a pioneer in addressing the opioid epidemic in upstate New York and founded the highly successful Chatham Cares 4 U program.

Chatham Cares 4 U encourages residents struggling with the disease that is addiction to walk into the police station, turn over their drugs, and ask for help. Instead of being charged, individuals are placed into a treatment program, regardless of financial means or their insurance coverage.

This highly-successful initiative has been modeled throughout our region, and I was proud to have Chief Volkmann share his success with our community at my opioid epidemic panel last year.

Our work to address this urgent priority is ongoing and will require both the attention and continued cooperation of all levels of government, law enforcement, and our first responders.

In that vein, I hope to hear from the President on Tuesday that he is committed to bipartisan, comprehensive solutions to address the opioid crisis in upstate New York and all across this country.

NATIONAL CATHOLIC SCHOOLS WEEK

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIPINSKI. Mr. Speaker, this is National Catholic Schools Week. Every year, I introduce a resolution to recognize the outstanding contributions that Catholic schools make to our Nation.

My own education at Saint Symphorosa and Saint Ignatius provided the foundation that enabled me to earn 2 degrees in engineering, and a Ph.D. in political science before I began my career as a teacher. My experience, my wife's experience, and the experience of so many others across our Nation have made me a lifelong supporter of Catholic schools.

This year's Catholic Schools Week theme is ''Learn. Serve. Lead. Succeed.'' And that is exactly what Catholic schools teach students to do.

Earlier this week, I visited Saint Christina in Chicago and Saint Albert the Great in Burbank, and later this week I will be at Saints Cyril & Methodius in Lemont, as well as Saint Richard and Saint Daniel in Chicago.

Mr. Speaker, I urge my colleagues to take time this week to recognize the great work of the Catholic schools in their districts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules if a recorded vote or the yeas and nays are ordered, or if the vote is objected to under clause 6 of rule XX.

The House will resume proceedings on the postponed question at a later time.

TEMPORARY REAUTHORIZATION AND STUDY OF THE EMERGENCY SCHEDULING OF FENTANYL ANALOGUES ACT

Ms. KUSTER of New Hampshire. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3201) to extend the temporary scheduling order for fentanyl-related substances, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3201

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act''.

SEC. 2. EXTENSION OF TEMPORARY ORDER FOR FENTANYL-RELATED SUBSTANCES.

Notwithstanding any other provision of law, section 1308.11(h)(30) of title 21, Code of Federal Regulations, shall remain in effect until May 6, 2021.

SEC. 3. STUDY AND REPORT ON IMPACTS OF CLASSWIDE SCHEDULING.

(a) DEFINITION.—In this section, the term ''fentanyl-related substance'' has the meaning given the term in section 1308.11(h)(30)(i) of title 21, Code of Federal Regulations.

(b) GAO REPORT.—The Comptroller General of the United States shall—

(1) conduct a study of the classification of fentanyl-related substances as schedule I controlled substances under the Controlled Substances Act (21 U.S.C. 801 et seq.), research on fentanyl-related substances, and the importation of fentanyl-related substances into the United States; and

(2) not later than 1 year after the date of enactment of this Act, submit a report on the results of the study conducted under paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Caucus on International Narcotics Control of the Senate;

(D) the Committee on the Judiciary of the House of Representatives; and

(E) the Committee on Energy and Commerce of the House of Representatives.

(c) REQUIREMENTS.—The Comptroller General, in conducting the study and developing the report required under subsection (b), shall—

(1) evaluate class control of fentanyl-related substances, including—

(A) the definition of the class of fentanyl-related substances in section 1308.11(h)(30)(i) of title 21, Code of Federal Regulations, including the process by which the definition was formulated;

(B) the potential for classifying fentanyl-related substances with no, or low, abuse potential, or potential accepted medical use, as schedule I controlled substances when scheduled as a class; and

(C) any known classification of fentanyl-related substances with no, or low, abuse potential, or potential accepted medical use, as schedule I controlled substances that has resulted from the scheduling action of the Drug Enforcement Administration that added paragraph (h)(30) to section 1308.11 of title 21, Code of Federal Regulations;

(2) review the impact or potential impact of controls on fentanyl-related substances on public health and safety, including on—

(A) diversion risks, overdose deaths, and law enforcement encounters with fentanyl-related substances; and

(B) Federal law enforcement investigations and prosecutions of offenses relating to fentanyl-related substances;

(3) review the impact of international regulatory controls on fentanyl-related substances on the supply of such substances to the United States, including by the Government of the People's Republic of China;

(4) review the impact or potential impact of screening and other interdiction efforts at points of entry into the United States on the importation of fentanyl-related substances into the United States;

(5) recommend best practices for accurate, swift, and permanent control of fentanyl-related substances, including—

(A) how to quickly remove from the schedules under the Controlled Substances Act substances that are determined, upon discovery, to have no abuse potential; and

(B) how to reschedule substances that are determined, upon discovery, to have a low abuse potential or potential accepted medical use;

(6) review the impact or potential impact of fentanyl-related controls by class on scientific and biomedical research; and

(7) evaluate the processes used to obtain or modify Federal authorization to conduct research with fentanyl-related substances, including by—

(A) identifying opportunities to reduce unnecessary burdens on persons seeking to research fentanyl-related substances;

(B) identifying opportunities to reduce any redundancies in the responsibilities of Federal agencies;

(C) identifying opportunities to reduce any inefficiencies related to the processes used to obtain or modify Federal authorization to conduct research with fentanyl-related substances;

(D) identifying opportunities to improve the protocol review and approval process conducted by Federal agencies; and

(E) evaluating the degree, if any, to which establishing processes to obtain or modify a Federal authorization to conduct research with a fentanyl-related substance that are separate from the applicable processes for other schedule I controlled substances could exacerbate burdens or lead to confusion among persons seeking to research fentanyl-related substances or other schedule I controlled substances.

(d) INPUT FROM CERTAIN FEDERAL AGENCIES.—In conducting the study and developing the report under subsection (b), the Comptroller General shall consider the views of the Department of Health and Human Services and the Department of Justice.

(e) INFORMATION FROM FEDERAL AGENCIES.—Each Federal department or agency shall, in accordance with applicable procedures for the appropriate handling of classified information, promptly provide reasonable access to documents, statistical data, and any other information that the Comptroller General determines is necessary to conduct the study and develop the report required under subsection (b).

(f) INPUT FROM CERTAIN NON-FEDERAL ENTITIES.—In conducting the study and developing the report under subsection (b), the Comptroller General shall consider the views of experts from certain non-Federal entities, including experts from—

(1) the scientific and medical research community;

(2) the State and local law enforcement community; and

(3) the civil rights and criminal justice reform communities.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Hampshire (Ms. KUSTER) and the gentleman from Oregon (Mr. WALDEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Hampshire.

GENERAL LEAVE

Ms. KUSTER of New Hampshire. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on S. 3201.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Hampshire?

There was no objection.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we, as a Congress, have worked over the past several years to combat the opioid epidemic and support the millions of Americans with a substance use disorder. That work includes bipartisan passage of legislation like the 21st Century Cures Act, the Comprehensive Addiction and Recovery Act, and the SUPPORT for Patients and Communities Act.

In 2017 and 2018, we appropriated nearly $11 billion for a total of 57 Federal programs that fund efforts to curb this epidemic. These programs span the continuum of care, including prevention, treatment, and long-term recovery.

The funding also spans across agencies, directing investments toward research, public health surveillance, and supply reduction efforts. Most recently, in the fiscal year 2020 funding bill, we included over $4 billion in public health dollars to help with prevention and treatment.

In December, the House passed H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, which included an additional $10 billion in funding to support public health efforts to combat the opioid epidemic.

On the Energy and Commerce Committee, we have had the chance to hear directly from States that our work at the Federal level has helped save lives. Last year, in my State of New Hampshire, a total of 284 deaths were attributed to drug overdoses, of which 82 percent, 234 deaths, involved the use of fentanyl. This is an alarming statistic and the frightening reality of opioid addiction in our communities.

It is crucial that we understand the significance of synthetic opioids. As we have seen in New Hampshire and around this country, though the most

recent data has indicated overdose deaths have plateaued, deaths from synthetic opioids continue to rise.

This is primarily fueled by illicit fentanyl and substances structurally related to fentanyl, which we commonly refer to as fentanyl analogues. These drugs are often far more powerful. Fentanyl, the most well-known of this class of drug, is approximately 50 times more powerful than heroin and 100 times more powerful than morphine.

□ 1230

Although it is used in legitimate medical settings, we have seen a proliferation of illicitly produced fentanyl, fentanyl analogue, and its precursor chemicals originating from China.

Because fentanyl is relatively easy to make and so potent, it is tragically leading to large increases in overdose deaths. One kilogram of fentanyl purchased in China for $3,000 to $5,000 can generate upwards of $1.5 million in revenue on the illicit market here in the United States. That is potentially enough to kill 500,000 Americans by overdose.

We have all heard the terrible numbers that tell this story. In 2017, there were over 47,000 opioid overdose deaths, and 28,000 of those deaths involved synthetic opioids such as fentanyl in the United States.

A more complicating factor is that we are now seeing fentanyl increasingly mixed into other drugs like cocaine, methamphetamine, and even counterfeit prescription drugs like oxycodone. This means that many unsuspecting Americans are dying at the hands of fentanyl when they didn't even realize they were taking it.

Mr. Speaker, the nature of our Nation's fentanyl problem is far more complex than drug epidemics of the past. In addition to traditional routes, users can purchase fentanyl analogues and fentanyl precursor chemicals online on the internet. These purchases, which typically include the most pure and potent fentanyl, are often packaged and shipped through the United States Postal Service or consignment carriers in small quantities, making detection a significant challenge.

These factors create a complex problem which requires a multifaceted solution. Part of that solution is finding a way to support both public health and public safety actions aimed at stemming the tide of overdose deaths.

In February 2018, the Drug Enforcement Agency used its authority in the Controlled Substances Act to temporarily place, for 2 years, all illicit fentanyl-like substances in schedule I. With this authority expiring in just 9 days, we must do more to understand the true impact of this temporary scheduling order, including its impact on public health, public safety, research, and Federal criminal prosecutions.

That is why, today, we are considering S. 3201, the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act. This bill, which passed unanimously out of the Senate, would extend DEA's temporary order for 15 months, while also tasking the Government Accountability Office with an evaluation of the temporary order.

Placing a whole class of fentanyl-like substances into schedule I does not come without implications for criminal justice and research. The National Institute on Drug Abuse notes that obtaining or modifying a schedule I registration involves significant administrative challenges, and researchers report that obtaining a new registration can take more than a year.

It is critical that our response balance the need for legitimate research access that holds potential for improved treatments for pain and addiction, while also prioritizing a more long-term solution to the dangerous trafficking of fentanyl analogues.

This temporary emergency scheduling order also has international implications. A year after the United States moved to schedule all fentanyl-related substances, China finally announced that it would act and do the same. This classwide control in China has slowed the rate of new fentanyl analogue encounters in the illicit market.

An expiration in 9 days would also put the DEA back in the position of playing whack-a-mole, scheduling fentanyl substances one by one while clandestine criminal chemists in China work to stay one molecule ahead of our efforts.

As founder and co-chair of the Bipartisan Opioid Task Force, I agree with many of my colleagues that we cannot arrest our way out of this epidemic, and that is why I have introduced the Humane Correctional Healthcare Act. This legislation would repeal the Medicaid Inmate Exclusion and allow justice-involved individuals to access quality healthcare, including mental health treatment and substance misuse services.

The complexity of the fentanyl crisis and creation of other synthetic drugs demand a thoughtful, balanced approach that protects the public health and public safety of all Americans.

This temporary extension, coupled with the GAO study, will give us the time to work on a longer term solution and will also give us the opportunity to better understand the full range of implications that come with classwide scheduling of these substances.

I urge my colleagues to support this measure, and I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 29, 2020.

Hon. FRANK PALLONE,
Chairman, Energy and Commerce Committee, Washington, DC.

DEAR CHAIRMAN PALLONE: In recognition of the desire to expedite consideration of S. 3201, the Temporary Reauthorization for the Study of Emergency Scheduling of Fentanyl Analogues Act, the Committee on Ways and Means agrees to waive formal consideration of the bill as to provisions that fall within the rule X jurisdiction of the Committee on Ways and Means.

The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation.

Finally, I would appreciate your response to this letter confirming this understanding, and would ask that a copy of our exchange of letter on this matter be included in the Congressional Record during floor consideration of S. 3201.

Sincerely,

RICHARD E. NEAL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, January 29, 2020.

Hon. RICHARD NEAL,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN NEAL: Thank you for consulting with the Committee on Energy and Commerce and agreeing to waive formal consideration of S. 3201, the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act, so that the bill may proceed expeditiously to the House floor.

I agree that your forgoing further action on this measure does not in any way diminish or alter the jurisdiction of your committee or prejudice its jurisdictional prerogatives on this measure or similar legislation in the future. I would support your effort to seek appointment of an appropriate number of conferees from your committee to any House-Senate conference on this legislation.

I will ensure our letters on S. 3201 are entered into the Congressional Record during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work together as this measure moves through the legislative process.

Sincerely,

FRANK PALLONE, JR.,
Chairman.

Mr. WALDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of S. 3201, the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act. This is a commonsense, bipartisan extension of DEA's temporary scheduling of fentanyl-related substances.

Mr. Speaker, fentanyl is 50 times more potent than heroin. Fentanyl is 100 times more potent than morphine. There are also countless types of fentanyl analogues which are similar in chemical structure to fentanyl but can be even more potent.

In just a 1-year period, synthetic opioids like fentanyl claimed more than 32,000 American lives. I am reminded of the story of Amanda Gray, a beautiful young lady who was going to college, ended up being given 100 percent fentanyl, and died.

These are evil things going on in our society and our culture, and this legislation will help put a stop to it. To fight this epidemic, the Drug Enforcement Administration was able to put in place this powerful but temporary tool.

Previously, drug traffickers could create these new variations of fentanyl by changing as little as a molecule—just one. Then these new variations, or analogues, as they are known, were not any longer on the schedule of controlled drugs.

So what does that mean? They were outside of the control of law enforcement. They were legal.

Analogues allow drug traffickers in clandestine labs to use the legal system and their chemistry knowledge to their advantage. By simply tweaking the drug and calling it something else then, they can avoid prosecution.

The creation of analogues has outpaced the DEA's ability to schedule them, so the DEA used emergency authorities that we have given them to temporarily place all previously unscheduled fentanyl analogues in schedule I so the administration could combat all fentanyl-related substances instead of just going after one substance at a time.

Since the instatement of the scheduling order, the DEA has encountered over 20 fentanyl-related substances that would have been perfectly legal but for this law.

Because of the number of possible variations to the fentanyl molecule, there is the potential for these bad actors—these killers—to create 3,000 analogues. There is no way the DEA could keep up one by one. Many of these substances will be legal again if no action is taken.

The DEA's ability to schedule all fentanyl substances expires next week. That is why Congress must act, and it must act now.

This is what we were fighting about yesterday, as Republicans, to get this bill on the floor. It shouldn't have come to the last minute, but I am glad it is here. The Senate has passed this bill, unanimously, some time ago, and S. 3201 is before us today.

Last Congress, we were able to put partisanship aside to pass the SUPPORT Act, landmark legislation to combat the opioid crisis. Synthetic opioids like fentanyl and its analogues continue to ravage our communities and take lives, and I am pleased that, again, we put partisanship aside today to extend this critical emergency scheduling order. This way, law enforcement does not lose its important capability to combat trafficking of fentanyl-related substances.

I urge my colleagues on both sides of the aisle to join me in support of this important legislation and to preserve this tool for law enforcement and those on the front lines of our communities fighting this opioid crisis that is so deadly.

Mr. Speaker, I reserve the balance of my time.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman for yielding to me.

I rise to agree with my colleagues that we are facing a crisis. The number of overdoses and deaths related to fentanyl has skyrocketed over the last few years; however, the emergency scheduling of fentanyl and its analogues or any other substance as a schedule I drug has serious criminal justice implications.

We should not forget our history and what happened to communities of color during the failed war on drugs. We can't forget that classifying a substance as a schedule I drug comes with harsh mandatory minimum sentences that even the lowest quantity can trigger.

We cannot forget that over 60 percent of people federally charged for drug possession and over 95 percent of people charged with drug trafficking receive a prison sentence. We should not forget that over 78 percent of people charged with a fentanyl trafficking offense are people of color.

We must work together to prioritize a public health solution, not just a criminal justice one, to the fentanyl epidemic. We must remember that a criminal justice approach disproportionately impacts people of color and does not necessarily reduce the crime.

I look forward to working with my colleagues to address the problems that this bill possibly could create.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentlewoman for those comments, and I echo the need to address mandatory minimum sentencing and comprehensive criminal justice reform.

The opioid epidemic is not a problem that we can jail our way out of, and it is imperative that we work together to fix our broken criminal justice system that unjustly incarcerates Black and brown Americans at alarming rates.

I agree that we cannot repeat the mistakes of the past in responding to drug epidemics, but the dramatic increases in fentanyl-related deaths require us to act. Ensuring that the DEA has the authority to ban new synthetic analogues, most of which are being manufactured by criminal chemists in China, is important to curb the influx of fentanyl.

I believe that a critical component of criminal justice reform is improving health access and coverage for incarcerated individuals, many of whom suffer from substance misuse disorder and mental health issues with a co-occurring mental health disorder.

I have introduced bipartisan legislation, the Humane Correctional Health Care Act, which aims to break the cycle of reincarceration and recidivism by repealing the Medicaid Inmate Exclusion, which blocks access to care. Healthcare is a fundamental human right that should never be stripped from any person for any reason.

The legislation that we are voting on today will give lawmakers additional time to craft a long-term plan for fentanyl while also considering comprehensive criminal justice reform, and I welcome the opportunity to work with the gentlewoman on this critically important issue.

Mr. Speaker, I reserve the balance of my time.

Mr. WALDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS), the ranking member of the Health Subcommittee.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding.

I am going speak in support of S. 3201, the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act. It is a critical reauthorization. It is imperative to maintaining our Nation's efforts to fix the opioid epidemic.

In February of 2018, the Drug Enforcement Administration used its authority—not legislative authority, but administrative authority—to place nonscheduled fentanyl-like substances temporarily into schedule I for a period of 2 years. We are now up against that deadline, and it is important that we do not let this authorization lapse, as fentanyl and its analogues are still an imminent threat to Americans.

□ 1245

The Drug Enforcement Administration testified before the Senate Judiciary Committee in June 2019 that: The positive impacts in the 15 months since this administrative scheduling change were significant. Prior to this action, DEA observed a rapid and continuing emergence of new fentanyl-like substances each time it scheduled a fentanyl-like substance into schedule I.

We really cannot return to that reality. Let me speak a little bit about what that reality is. Someone who is buying what they think is their standard fentanyl product from an illicit Chinese chemist and now buys a fentanyl analogue because it may not be illegal, those additional molecules change the potency of fentanyl so that some of these analogues are significantly more potent than the base molecule. In a country that has suffered with an unprecedented number of drug overdose deaths, that is a significant issue.

This Friday marks the anniversary of the United States Customs and Border Protection seizure of a record volume of fentanyl and methamphetamine worth almost $4.5 million at the border. These drugs were on their way to our American communities. They were on their way to hurt Americans.

You know, it is not lost on me the irony that the USMCA was signed today, a bill that could have been signed many, many months ago. Now we are doing this bill as a hurry-up, as

a suspension. It could have been done many months ago. Congress has been distracted with other activities, and that is incorrect.

Mr. Speaker, this is an important bill, and I urge its passage.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding. I appreciate her previous remarks, but I still have concerns about this bill because it is another so-called tough-on-crime bill that fails to address the true causes of the opioid crisis and will result in more incarceration of more drug users and street-level sellers.

Furthermore, there is nothing in the bill that targets the laboratories outside of the United States that are responsible for flooding our communities with fentanyl and fentanyl analogues.

Mr. Speaker, since President Nixon declared a war on drugs nearly 50 years ago, laws that ignore evidence and research in favor of harsh penalties and more mandatory minimums have succeeded in placing the United States as number one in the world in incarceration.

Mass incarceration has gotten so bad that some studies have shown that it actually adds to crime rather than reducing crime. For example, too many children are being raised by parents in prison, and too many people have felony records who can't find jobs because they are victims of bills like this.

Mr. Speaker, I have three main concerns regarding this legislation.

First, the bill abandons evidence and expertise in exchange for expediency. We have a process that works well for designating controlled substances under the Controlled Substances Act. This bill changes that process and allows DOJ to ignore the experts at the Department of Health and Human Services and the Federal Drug Administration.

Classwide scheduling would give the Drug Enforcement Administration the ability to classify any new alternative chemical version of fentanyl as a schedule I drug. That would encompass hundreds and possibly thousands of chemical compounds.

This bill also stifles research that could produce some of the best weapons against the opioid crisis. For example, lifesaving overdose treatments like Narcan could not have been developed under classwide scheduling because such scheduling creates enormous barriers for chemists studying opioid addiction by actually limiting access to the entire class of chemical compounds.

Second, the bill will add to mass incarceration. This bill will allow prosecution of street-level criminals, like we had in the 1980s and 1990s. And the bill will trigger the same mandatory minimums that have contributed to mass incarceration.

Possessing an analogue substance in a quantity equivalent to the weight of one paperclip would be enough to trigger a mandatory minimum of at least 5 years. A person does not even have to know the drug they are selling on the street or sharing with a friend contains that analogue substance. Classwide scheduling even allows prosecutors to seek longer sentences without a mens rea requirement.

Third, this bill includes unnecessary legislation. The Department of Justice already prosecutes cases involving drug analogues under existing law.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield an additional 30 seconds to the gentleman.

Mr. SCOTT of Virginia. Mr. Speaker, the Federal Analogue Act allows prosecutors to prove that a substance is chemically similar to fentanyl and has the same psychoactive effects. The Federal Analogue Act protects due process rights and is an important check on overcriminalization.

Let's not enact another law that sends more people to prison while ignoring the root causes of the present crisis, which is substance abuse and which should be dealt with as a public health problem.

That is the approach we should take, and we can take that approach by rejecting this bill.

Mr. WALDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. JOYCE).

Mr. JOYCE of Pennsylvania. Mr. Speaker, I thank the gentleman from Oregon (Mr. WALDEN) for yielding and for his support for prompt consideration of this bill today.

Mr. Speaker, I rise today in strong support of S. 3201, the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act.

In just a few short days, the DEA temporary ban of deadly fentanyl will expire. While I am relieved that the House will vote on this extension of the fentanyl ban today, I remain deeply troubled that this lifesaving bill was delayed by the political distractions.

Mr. Speaker, in both your and my districts, we have seen the devastation of fentanyl and fentanyl analogues. As a doctor, I have witnessed this drug crisis firsthand. Substance abuse and addiction have devastated individuals in my district of Pennsylvania and in every one of my colleagues' districts across America.

Fentanyl and its analogues are uniquely dangerous and deadly and have caused way too many overdose deaths from opioids in the last 2 years. We must act to protect the people that we represent from these deadly substances.

Mr. Speaker, just a few days ago, you and I heard from ONDCP Director James Carroll about the importance of passing this specific piece of legislation.

It is shameful that we waited until now to act on this lifesaving legislation.

Mr. Speaker, I urge all of my colleagues on both sides of the aisle to renew this ban immediately. We cannot afford to wait.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Speaker, I thank the gentlewoman for yielding. Let me express my appreciation to Representative KUSTER for her unending fight on this terrible scourge of drug addiction and death across the Nation. I look forward to working with her on her the Humane Correctional Health Care Act, H.R. 4141, as well as the Judiciary Committee taking this up in the near future to begin to address some of the wide scope issues that have to be addressed.

I am reminded of the tenure here in the United States Congress, where the impact of the arrest of addicted persons to crack and cocaine resulted in mass incarceration and upward of 2 million people incarcerated in this Nation, higher than any nation around the world.

I am reminded of the 2010 enactment of legislation that I wrote and passed, along with my colleagues, that set to reduce, through the Fair Sentencing Act, the unjust disparity between crack and cocaine from 100-to-1 to 18-to-1.

President Obama granted clemency to almost 2,000 individuals serving lengthy sentences for drug offenses during his administration.

Now, I realize in my own community in Houston, Texas, there have been 149 deaths documented by the Harris County Institute of Forensic Sciences in 2017, up from 79 in 2015. I also realize that, according to the drug policy guidelines, accidental drug overdose is the leading cause of death in the United States for those under 50.

With that in mind, wouldn't it have been preferable, even with the legislation that is included that does, in fact, have a study that would include the civil rights and criminal justice community's input? I believe that input should have been in the forefront because here is the singular problem I want to emphasize: Classwide scheduling would facilitate broader prosecutions with harsher penalties and fewer constitutional due process protections, according to Mr. Kevin Butler, who appeared before the Judiciary Committee yesterday.

The Department has indicated that it will use classwide scheduling to pursue severe mandatory minimums for anyone trafficking in an undefined and potentially limitless set of substances without having to prove those substances are or were intended to harm the human body.

Now, we know what the analogues will do. Here is our point: Our point is when I asked the Justice Department about who they would prosecute, they did indicate that they would not be prosecuting addicted persons. But

there are low-level traffickers. There are people who are addicted who are trafficking. So all you are going to do is to build up, again, the residency of the Nation's jails. That burden will fall heavily on African Americans and Latinos and other vulnerable people.

I want the scourge to end. I want the DEA to be able to work within the confines of the law. I want to work with the Congresswoman in her hard work, but what I will say is that this bill needs to expire as soon as possible.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield an additional 30 seconds to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Speaker, we need to move swiftly, as this bill may be passed today, in order to avoid expiration, so that we can work collectively together for what parents of the addicted and others want: treatment services, wraparound services.

We must be able to say that we are not going to take the average guy on the street with a dime or a dollar, trying to survive by selling it and adding that person to the prison population, and not trying to save lives.

Let's save lives with treatment. Let's save lives by getting rid of the cartels and the large sellers. But let's not build up our mass incarceration again.

Mr. Speaker, this is a very important hearing as we in the Congress continue to deal with the opioid crisis as a nation. According to the Drug Policy Alliance, ''accidental drug overdose is currently the leading cause of death in the United States for those under 50. Drug overdose deaths now exceed those attributable to firearms, car accidents, homicides, or HIV/AIDS. More Americans died from a drug overdose in 2017 alone than died in the entire Vietnam War.

Mr. Speaker, I strongly believe that we need to reduce drug overdose deaths by promoting sensible, evidence-based solutions at the federal level. The Houston region also saw an uptick in opioid overdose deaths during the last few years, according to data from the Harris County Institute of Forensic Sciences. There were 149 deaths documented by the office in 2017, up from the 79 recorded in 2015.

Nearly 64,000 people died of a drug overdose in 2016, a staggering 22 percent increase from the year prior.

Nearly two-thirds of 2016 deaths (66 percent) involved a prescription or illicit opioid.

Recent increases in death are driven by synthetic opioids like fentanyl—deaths from synthetic opioids more than doubled from 2015 to 2016 alone.

Overdose deaths are increasing across racial groups, but non-Hispanic whites have the highest rates of death.

It is important that we have a hearing to discuss whether or not the lethal opioid Fentanyl and its analogues to extend the temporary order to place it as a Schedule I drug. Factors such as poverty, lack of economic opportunity, and limited access to a social safety net meant that there was ready demand for those opioids. Once people become addicted, we have little infrastructure in place to ensure they receive the education, care, and treatment they need to prevent fatal overdoses.

The Drug Policy Alliance states that, ''Many states are reporting sharp increases in fentanyl-related overdose deaths. Fentanyl overdoses occur in seconds to minutes, often with the needle still inserted. Most users do not appear to be seeking fentanyl and are not aware that their illicit drugs may contain fentanyl. The heroin (particularly white powder heroin), methamphetamine, and cocaine supply is all at risk for fentanyl adulteration. There have also been cases of counterfeit Xanax and Oxycodone tablets that contain fentanyl. ''Most of the fentanyl on the black market is not from the medical supply; it is produced illegally. Though some fentanyl enters U.S. markets directly via the dark web, most fentanyl is being added to the drug supply before it enters the U.S., so domestic sellers may not know their drug products are contaminated with fentanyl. There are public health and harm reduction responses to fentanyl that are effective in reducing overdose deaths.''

I am interested in learning more as to whether extending Fentanyl as a Schedule I drug or even making it permanent as a Schedule I drug will increase penalties for fentanyl, that will simply end up increasing penalties for heroin and contribute to more incarceration. Lastly, I think we should all be concerned about the long-term effects of extending the temporary scheduling order would have on communities of color as well as low income communities in both urban and rural America.

Mr. Speaker, I thank the gentlewoman for yielding. I look forward to working with her, and I look forward to getting a better bill in the future.

Ms. KUSTER of New Hampshire. Mr. Speaker, I thank the gentlewoman for her comments, and I look forward to our work together going forward.

Mr. Speaker, I reserve the balance of my time.

Mr. WALDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. WALBERG), a very important member of the Energy and Commerce Committee.

Mr. WALBERG. Mr. Speaker, I thank Mr. WALDEN, my friend, for yielding.

Mr. Speaker, I rise today in support of S. 3201.

Opioids, heroin, fentanyl, and fentanyl-like substances have ravaged the communities of all of us, like mine, across this Nation. Synthetic opioids have claimed the lives of tens of thousands of Americans last year, and I have heard firsthand some of those devastating stories from friends, neighbors, and constituents in my district.

The DEA has been able to combat this part of the epidemic by changing the scheduling so that the administration could combat all fentanyl-related substances.

Passing S. 3201 will allow law enforcement the leeway to properly combat these fentanyl-like substances.

My support of this measure is strong, but I am admittedly frustrated. We need to make this scheduling classification permanent. We cannot let expiration dates approach while political games that we have seen for months and months now take the spotlight and consume precious legislative time that could have indeed helped to deal with some of the concerns my friends on the other side of the aisle expressed about minimum mandatories and criminal justice reform.

We have come dangerously close to the expiration of the temporary order making fentanyl-related substances schedule I.

Mr. Speaker, I urge my colleagues to support S. 3201, but I also encourage immediate action to be taken to make these changes permanent and to stop using political games to stand in the way of doing things like this. Pass this legislation today.

□ 1300

Ms. KUSTER of New Hampshire. Mr. Speaker, we do not have any more speakers, and I am prepared to close if my Republican colleagues don't have any more speakers.

Mr. Speaker, I reserve the balance of my time.

Mr. WALDEN. Mr. Speaker, we have several more people who would like to speak on this.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CARTER), the lone pharmacist in the U.S. House of Representatives.

Mr. CARTER of Georgia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to speak in support of S. 3201 to extend the emergency scheduling of fentanyl and its analogues.

Fentanyl is a synthetic, which means man-made, opioid. It is 50 times more potent than heroin, and 100 times more potent than morphine.

And while fentanyl is a schedule II drug, traffickers have been able to make small changes to the drug as a way around DEA enforcement. These fentanyl-like substances can be just as dangerous, if not more deadly, than traditional opioids. And the pain they have caused communities across the country is immeasurable.

To combat these drugs, DEA used its authority to temporarily ban these products, but that extension expires next week. The fact that we are just now addressing this issue with 1 week to go, has been flirting with disaster. That is why I am so thankful that we are here passing this bill to protect our communities from deadly fentanyl products.

This administration has put fighting back against the opioid crisis front and center from day one. And in the past several years under Republican leadership, the House passed a series of comprehensive, bipartisan legislative packages to help American communities combat addiction.

We must all keep up that fight. I urge my colleagues to support this bill.

Mr. WALDEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the former chairman of the Judiciary Committee and the Science, Space, and Technology Committee.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of S. 3201.

Without this 15-month extension, dangerous fentanyl analogues will fall through a legal loophole in just 8 days. If there ever was a must-pass bill, this it is.

Importantly though, the scourge of fentanyl analogues needs to be addressed permanently. Drug traffickers are increasingly savvy and sophisticated; they can alter the chemical composition of these drugs, creating analogues that don't fall under the drug-scheduling protocol.

DEA has taken emergency steps to combat these analogues which we will temporarily extend today, but we owe it to our constituents to permanently schedule these drugs. This is about saving lives.

I have legislation, the Stopping Overdoses of Fentanyl Analogues Act, or SOFA, to place these drugs on schedule I and to give the DEA the authority to combat new analogues that arise.

We need to pass SOFA to protect our communities, and we need to pass SOFA to save lives.

I want to highlight how dangerous these substances are. One teaspoon of fentanyl is enough to kill 2,000 people. This lethality puts fentanyl and its analogues in a class with chemical warfare agents like VX nerve gas and ricin.

Scheduling fentanyl analogues is a matter of life or death. We must choose life. The attorneys general of all 50 States and the Attorney General of the United States have all called for the passage of SOFA and the permanent scheduling of fentanyl analogues.

I urge my colleagues to do our part to protect the American people to save lives. Pass this bill, and then let's pass SOFA.

Mr. WALDEN. Mr. Speaker, we have one more speaker who is making her way here, and so I reserve the balance of my time.

Ms. KUSTER of New Hampshire. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that I appreciate my colleagues who have come to the floor to speak on this bill. I think everyone knows that this is a very personal issue for me, not just because of my own constituents, but because of my own family, and I appreciate the bipartisan support for this bill.

I do want to work with my colleagues in the Judiciary Committee and in the Congressional Black Caucus and others on reform of sentencing guidelines. I think we can make that kind of progress during the 15 months, and I hope that I will get bipartisan support for my legislation which would bring treatment for mental health issues and substance use disorder into the justice-served population, because my view is that we have created a system that is not functional and not serving the purposes of the American people or the American taxpayers.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. WALDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague and friend from New Hampshire for her leadership on this and her deep caring about it. It is something we all share. We all have our stories, both personal and throughout our districts, that we have heard over the years about the tragedy of addiction.

When we worked on the opioid legislation the last Congress when I chaired the Energy and Commerce Committee, we heard from so many Members who came and made their case when we had Member Day from then-Democratic Leader PELOSI to everybody—right, left, center—and we took all of those ideas and did what this body does best: We converted them into legislation. We had over 50 bills and it became one in the SUPPORT Act which is now law.

We also continued our investigation through the end of 2018 looking at how this abuse got out of control from the prescribers, from the distributors, from the illegal traffickers, every bit of that, and I hope before this Congress is over, we go back, look at the recommendations from that report, and see what else we need to do.

There were Member ideas that did not make it all the way through the process last time that we should be focused on. Obviously, there is certainly interest in criminal justice reform, and I dare say—and I will be careful how I say this—but perhaps the Judiciary Committee could have used some of its time differently earlier in this Congress to address these pressing issues as opposed to some of the matters it decided to focus on.

We have more work to do in this space to get treatment, to get justice, and to stop these purveyors of death.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Mrs. RODGERS), a very important member of our Energy and Commerce Committee

Mrs. RODGERS of Washington. Mr. Speaker, I thank the gentleman for yielding. I appreciate his extraordinary leadership for us on the Energy and Commerce Committee.

Across America, drug abuse and addiction are leading to broken lives, broken families, and broken systems. It is leaving our communities trapped in a cycle of hopelessness and deaths of despair. People need help. People need hope.

I have heard these stories myself in eastern Washington. Last year, the SUPPORT Act marked the most comprehensive action we have taken on a single drug crisis, but the fight is not over.

In 2017, there were tens of thousands of drug overdose deaths. The sharpest increase occurred because of fentanyl from China. Fentanyl is 50 times more potent than heroin. Just a few milligrams that can fit on Lincoln's ear on a penny, are lethal.

Chinese chemical companies are the largest, single source of this. To crack down on China, the Drug Enforcement Administration created a temporary scheduling system for fentanyl. Previously, drug traffickers could slightly change the molecules in the drug so the formula was not considered prohibited. With this scheduling tool, the DEA changed the scheduling temporarily in order to combat all fentanyl-related substances.

This legislation would extend this emergency declaration through May 2021, and it will give law enforcement the tools they need to keep us safe.

We must keep fentanyl off our streets to save lives and to win the future. That means cracking down on Chinese fentanyl and stopping these deaths of despair which are not only threatening families, they are threatening America's leadership and prosperity.

Mr. Speaker, I urge support of this legislation.

Mr. WALDEN. Mr. Speaker, how much time does each side have remaining?

The SPEAKER pro tempore. The gentleman from Oregon has 3¾ minutes remaining. The time of the gentlewoman from New Hampshire has expired.

Mr. WALDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is one of those rare moments of bipartisanship on the floor. This is a killer issue in every respect. I am pleased we are finally getting this signed through this process and down to the President to be signed after the vote today, which I assume will go well.

There is much more work to be done in this space to help those who suffer from substance use disorder and help those in our communities who are confronted with mental health disease and no place to get assistance or the proper assistance.

It is true that our jails and our prisons are often where we house people with mental health disorders because we have no other place, and that is not the right course for treatment.

Today, we take a big and important step to try and stop these illegal and deadly analogues of fentanyl. We have all heard how potent they are and how deadly they are. It gets mixed in with the heroin and people take it, and that is why we see the circles of death in our communities when it is too strong for the human body to take.

Today, is an important day, Mr. Speaker. I wish it had been done much sooner so there wasn't this sort of craziness in the end: Are we going to get this done? Is it going to expire? It doesn't have to be that way, and obviously, there are more issues to be taken up.

Mr. Speaker, I urge my colleagues to support. S. 3201, and I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, we as a Congress have worked over the past several years to combat the opioid epidemic and support the millions of Americans with a substance use disorder. That work includes bipartisan efforts to pass legislation like the 21st Century Cures Act, the Comprehensive Addiction and Recovery Act (CARA), and the SUPPORT for Patients and Communities Act.

Just last month, in the Fiscal Year 2020 funding bill, we supported a public health response to this epidemic with over $4 billion to help with Federal substance abuse treatment and prevention efforts. Also last month, the House passed H.R. 3, the Elijah E. Cummings Lower Drug Costs Now Act, which included an additional $10 billion in funding to support public health efforts at the Department of Health and Human Services to combat the opioid epidemic.

Earlier this month, the Energy and Commerce Committee had a chance to hear directly from States on how our federal support through these legislative actions has helped save lives. Although we've witnessed an improvement in the number of year-to-year overdose deaths, the availability of synthetic opioids like fentanyl is hindering the progress we've made.

Fentanyl is a deadly synthetic drug that is 50 times more powerful than heroin, and 100 times more powerful than morphine. Although it is used in medical settings, we have seen a proliferation of illicitly produced fentanyl, fentanyl analogues, and its precursor chemicals originating from China. Because fentanyl is relatively easy to make and so potent, it is tragically leading to large increases in overdose deaths.

We have all heard the terrible numbers that tell this story. In 2017, there were over 47,000 opioid overdose deaths—and 28,000 of those deaths involved synthetic opioids such as fentanyl. My home State of New Jersey, for example, has seen a tenfold increase in deaths involving fentanyl in the last several years.

A more complicating factor is that we are now seeing fentanyl increasingly mixed into other drugs like cocaine, methamphetamine, and even counterfeit prescription drugs like oxycodone. This means that many unsuspecting people are dying at the hands of fentanyl when they didn't even realize they were taking it.

Mr. Speaker, the nature of our Nation's fentanyl problem is more complex than drug epidemics of the past. In addition to traditional routes, users can purchase fentanyl analogues and fentanyl precursor chemicals online. These purchases, which typically include the most pure and potent fentanyl, are often packaged and shipped through the United States postal system or consignment carriers in small quantities, making detection a significant challenge. All these factors combined make for complex problem, and requires a multifaceted solution. Part of that solution is finding a way to support both public health and public safety actions aimed at stemming the tide of overdose deaths.

In February 2018, the Drug Enforcement Agency (DEA) used its authority in the Controlled Substances Act to temporarily place for two years all illicit fentanyl-like substances in Schedule I. With this authority expiring next month, we must do more to understand the true impact of this temporary scheduling order, including its impact on public safety, public health, research, and federal criminal prosecutions.

That is why today we are considering S. 3201, the ''Temporary Reauthorization and Study of Emergency Scheduling of Fentanyl Analogues Act.'' The Senate bill would extend DEA's temporary order for 15 months while also tasking the Government Accountability Office (GAO) with an evaluation of the temporary order.

Placing a whole class of fentanyl-like substances into Schedule I does not come without implications for criminal justice and research. The National Institute on Drug Abuse within the National Institutes of Health, notes that ''obtaining or modifying a Schedule I registration involved significant administrative challenges, and researchers report that obtaining a new registration can take more than a year.'' It is critical that our response balance the need for legitimate research access that holds potential for improved treatments for pain and addiction, while also putting in place a more long-term solution to the dangerous trafficking of fentanyl analogues.

This temporary emergency scheduling order also has international implications. A year after the United States moved to schedule all fentanyl-related substances, China announced it would act and do the same. This class-wide control in China has slowed the rate of new fentanyl analogue encounters in the illicit market. An expiration would also put the DEA back in the position of playing whack a mole, and taking action to schedule fentanyl substances one by one while illicit traffickers continue to evade scheduling and find new ways to flood our markets with deadly synthetic substances.

I agree with many of my colleagues that we cannot arrest our way out of this epidemic. The complexity of the fentanyl crisis, and creation of other synthetic drugs, demands a thoughtful, balanced approach that protects the public health and public safety of all Americans. This temporary extension, coupled with GAO's study, will give the committees of jurisdiction time to work on a longer-term solution. It will also give us the opportunity to solicit feedback to help us to better understand the full range of implications that come with class-wide scheduling of these substances.

Ms. BLUNT ROCHESTER. Mr. Speaker, every 22 hours, a Delaware family loses a loved one to an overdose. Unfortunately, that figure may increase due to the proliferation of synthetic opioids like fentanyl. Fentanyl has made this national public health emergency increasingly deadly and increasingly difficult to address. My home state of Delaware continues to see an unacceptably high loss of life due to the increasing prevalence of synthetic opioids like fentanyl and despite the work Congress has done to address this crisis. With the passage of the bipartisan SUPPORT Act, we took significant steps forward to truly address the opioid epidemic. But it is clear that we must do more.

We need a comprehensive response to combat the opioid epidemic and the proliferation of fentanyl. I call on my colleagues to provide the funding needed to effectively treat substance use disorder, funding I proudly champion as a supporter of the Respond NOW Act, which would provide $5 billion dollars a year to treatment services. And I hope to work with my colleagues in the near future to advocate for the kind of policies we need to effectively respond to fentanyl and finally bring the relief our communities deserve.

We cannot arrest our way out of this crisis and this bill gives me serious concern. Sadly, our criminal justice system is not able to solve this problem. Too often the proposed solution has been to take away judicial discretion in favor of mandatory minimums, disproportionately affecting the poor and people of color. Worse, this drive to incarcerate coupled with the lack of effective treatment for substance use disorder behind the walls of our correctional institutions threatens to make a national crisis into a national disaster. While controlling the flow of illicit fentanyl can help mitigate this crisis, it can only do so temporarily. And that is why I support S. 3201 today because while it is far from perfect, we need to try and curb the increase of addiction and death by fentanyl because too often, these tragic deaths disproportionately impact people of color. This bill will only extend the DEA's scheduling order for 15 months and require an important study to give us the information we need to truly solve this calamity. It will give us time to create the long-term solution the country needs.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Hampshire (Ms. KUSTER) that the House suspend the rules and pass the bill, S. 3201.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. WALDEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

STUDENT BORROWER CREDIT IMPROVEMENT ACT

GENERAL LEAVE

Ms. WATERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 3621.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 811 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 3621.

The Chair appoints the gentleman from the Northern Mariana Islands (Mr. SABLAN) to preside over the Committee of the Whole.

□ 1314

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3621) to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes, with Mr. SABLAN in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall be confined to the bill and amendments specified in

the first section of House Resolution 811 and shall not exceed 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services.

The gentlewoman from California (Ms. WATERS) and the gentleman from North Carolina (Mr. MCHENRY) each will control 30 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 3621, the Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency Act, legislation sponsored by Representative AYANNA PRESSLEY of Massachusetts. This package of bills builds upon reforms that members of the Financial Services Committee have been developing for several Congresses.

Mr. Chairman, credit reporting is unlike any other business. Consumers are not customers of credit reporting agencies; they are the product. Credit reporting agencies package up consumers' data to sell to lenders, employers, and other businesses.

Unfortunately, our system of consumer credit reporting is badly broken, and consumers have little recourse. It is typical for credit reports to be filled with unacceptable errors that are difficult for consumers to correct. A Federal Trade Commission study found that one in five consumers have verified errors in their credit reports, and 1 in 20 consumers have errors so serious that they would be denied credit or need to pay more for it. This means about 42 million consumers have errors in their credit reports and 10 million have reports that can be life-altering.

Consumers are frustrated with the current system. In 2018, the Consumer Financial Protection Bureau received 126,300 consumer complaints on credit reporting, which was more than one-third of all complaints submitted. The Consumer Financial Protection Bureau received more complaints about credit reporting than any other issue.

This legislative package makes critical reforms to help consumers by addressing problems with the credit reporting system.

The legislation includes H.R. 3642, the Improving Credit Reporting for All Consumers Act, a bill sponsored by Representative ALMA ADAMS, which would address burdens consumers experience when trying to remove errors from their consumer reports, including by providing a new right to appeal the results of initial reviews about the accuracy or completeness of disputed items on the report.

The package also includes H.R. 3622, the Restoring Unfairly Impaired Credit and Protecting Consumers Act, a bill sponsored by Representative RASHIDA TLAIB. This part of the bill would limit how long adverse credit information stays on consumer reports, and it would protect consumer victims by removing adverse information relating to predatory, discriminatory, or otherwise unlawful loans made by a financial institution. It would also prohibit reporting debt relating to medically necessary procedures and delay reporting by 1 year for other medical debt.

In addition, the package includes H.R. 3614, the Restricting Use of Credit Checks for Employment Decisions Act, a bill sponsored by Representative AL LAWSON. This part of the bill would prohibit employers from using credit reports for employment decisions, except when a credit report is otherwise required to conduct a background check by Federal, State, or local law or for a national security clearance.

Then there is H.R. 3621, the Student Borrower Credit Improvement Act, a bill sponsored by Representative PRESSLEY, which is also included in the legislation. This part of the bill would help student borrowers who may have been delinquent on paying their private student loans to repair their credit after they demonstrate a history of timely loan repayments for these loans, similar to how the credit reports of borrowers with Federal student loans can be rehabilitated.

Another key measure included in this package is H.R. 3629, the Clarity in Credit Score Formation Act, sponsored by Representative STEPHEN LYNCH. This legislation would direct the CFPB to provide oversight and set standards for validating the accuracy and predictive value of credit score models, and it would promote innovation by requiring a study on how the use of nontraditional data might impact the availability and affordability of credit for consumers with limited or no traditional credit histories.

Finally, the package includes H.R. 3618, the Free Credit Scores for Consumers Act, sponsored by Representative JOYCE BEATTY, which would direct the nationwide CRAs to give consumers free copies of their credit scores that are used by creditors in making credit decisions, as determined by the CFPB, whenever consumers obtain their free annual consumer reports.

I am pleased that this bill also includes a provision that I have worked on with a range of other Members that excludes from credit reports any adverse information about a Federal employee and others who are affected by a government shutdown.

Mr. Chairman, I urge all Members to support these commonsense reforms to improve the Nation's consumer reporting system and benefit hardworking American consumers.

Mr. Chairman, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the bill before us. This is a Democrat bill under the guise of consumer protection that will destroy the accuracy and completeness of consumer credit files. This will lead to a weaker financial system, undermining a great deal of safety and soundness that we have built up over decades. This will, in essence, socialize credit scoring and, therefore, credit allocation.

Mr. Chairman, this is an election year. I see that, and I see that not just in the rhetoric here in the House but in the legislation that is before us today.

This bill will weaken underwriting standards. It will make extending credit a riskier and more expensive activity, ultimately impacting both the cost and accessibility of credit for all Americans.

Let me be clear. For more than 1 year now, I have made the same statement on the House floor when the House Financial Services Committee has a bill here on the floor. Committee Republicans stand ready to work with the Democrats on issues that are important to the American people, and this bill is a prime example of this. We support policies that create jobs, grow our economy, and make our Nation more secure.

Today is no different. Republicans want to work with Democrats to help all consumers, especially consumers who may be struggling to access the necessary credit to apply for a home loan or replace a broken washing machine or perhaps even start a small business.

We want to reach a bipartisan compromise to reform the Fair Credit Reporting Act, or FCRA. We want to find a compromise that meaningfully helps consumers and, at the same time, stands a chance of being signed into law.

This bill is not that. I fear my colleagues have thrown out bipartisanship in favor of satisfying political allies in an election year.

This bill socializes credit modeling giving, the CFPB, an unaccountable bureau within the government, the ability to develop, maintain, and regulate credit modeling and factors used in analysis.

You will have politicians making the decisions on how credit is scored, Mr. Chairman. That is a dangerous thing and something in the United States we should not stand for.

This bill prevents employers from knowing the creditworthiness of employees. This creates a situation in which employees who are in significant debt could be targets of bribes or extortion or perhaps take money that is owed to other people.

This bill creates a boon for the trial lawyers, creating new reinvestigation and appeals processes to be exploited by the trial bar.

This bill diminishes the value of a credit score as a determining factor in extending credit—I don't think that is a secondary fact; I think that is the primary goal of this bill—by removing past credit scores after 2 years from a report and prohibiting those scores within the 2-year period from being used as a factor.

This bill also arbitrarily changes the time period negative information, such as a missed payment, remain on a consumer's credit report.

This bill makes it more difficult for private lenders to compete in the student loan industry by allowing delinquent borrowers or a borrower who has defaulted on a loan to rehabilitate their credit outside of the contractual terms.

This bill imposes unfunded mandates on the private sector to really an unprecedented degree.

These provisions make clear what Democrats want to accomplish in this bill. They want to socialize credit and the models underlying credit allocation. This bill takes credit reporting out of the hands of the private sector and gives it to the government.

Let me be clear. I am no fan of the large credit reporting agencies, also known as CRAs. In fact, during our one hearing on this topic last February, nearly 1 year ago at this point—I use the term loosely—that we discussed this bill, because it was just a discussion draft and much different from what we have before us. But in that hearing, we didn't discuss the implications of this bill or the FCRA. I made it clear at that hearing that I share the chairwoman's concerns with the credit reporting agencies, their lack of competition, and their oligopoly. In fact, there were aspects of the original discussion draft of this bill that are not part of what we have today that I thought had merit and should be explored in greater detail.

For example, I have concerns that CRAs' operations are not as consumer-friendly as they could be or should be. Moreover, not once after that hearing did the committee consult with additional subject matter experts on the inefficiencies, ineffectiveness, or improvements needed to the Fair Credit Reporting Act. Not once after that February hearing did we discuss how to make CRAs work better for the consumer. Not once did we have real bipartisan discussions about what we could achieve and get signed into law.

This is something that both Republicans and Democrats actually agree on, the need to reform this process. I agree that we should be disclosing public record data sources. I agree we should exclude paid medically necessary medical debt from consumer credit reports. I agree we should prohibit certain adverse information resulting from financial abuse or predatory lending from being included in consumer credit reports.

In fact, the substitute amendment I filed with the Rules Committee that was not made in order this day includes the bipartisan reform I described and more.

Committee Republicans support reforms such as prohibiting the use of Social Security numbers to verify consumers. Now, this is a primary source and a primary ingredient for identity fraud. We should take action there, and I think we can.

Committee Republicans also support facilitating online credit freezes and the removal of credit files for minors and children. We also support studying the use of nontraditional data in credit scoring as well as codifying the Consumer Financial Protection Bureau's, or the CFPB's, credit reporting registry.

I think there are things that we can do. Bipartisanship is within our grasp. All my colleagues have to do is reach out and grab it.

As I said, Republicans stand ready to work with Democrats to help consumers. But this bill is about socializing credit and credit allocation, and this bill is not the answer to the consumers' challenge. In fact, the Democrats' bill will only hurt the very consumers we are trying to help.

Mr. Chairman, I urge my colleagues to oppose this socialization of credit reporting and vote ''no'' on this bill. I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, this really should be a bipartisan bill, but my friends on the opposite side of the aisle have not been willing to really work in a bipartisan way. His bill was rejected in the Rules Committee because it was not germane. If he agrees with us on all of the items he identified, he should be supporting this bill.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Massachusetts (Ms. PRESSLEY), who is a sponsor of this important legislation.

□ 1330

Ms. PRESSLEY. Mr. Chair, in this country, our credit reports are our reputations, determining where you can live, where you can work, and how much it will cost you to finance everything from a car to a college degree. But our credit reporting system is fundamentally flawed, rife with inequities and disparities that stifle the upward mobility of millions of hardworking Americans.

I am proud to rise in support of my Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency, or Comprehensive CREDIT, Act, a critical package of reforms that will improve our fundamentally flawed credit reporting system.

How and what information is shared with credit reporting agencies is especially important as Americans take on ever-increasing debt simply for trying to afford basic needs: housing, healthcare, and higher education.

Trailing only mortgages, student loan debt is now the second highest form of consumer debt, impacting nearly one-fifth of U.S. households and totaling over $1.6 trillion. That is trillion with a T. In my home State of Massachusetts, alone, over 855,000 borrowers owe a total of $33.3 billion in student loan debt.

That is why I am especially proud the Comprehensive CREDIT Act includes reforms originally introduced in my Student Borrower Credit Improvement Act, reforms that would establish a credit rehabilitation process for private student loan borrowers facing hardship, making students eligible to have all associated derogatory remarks removed from their credit reports, which can otherwise stay on for 7 years.

Even if we wipe out all student debt tomorrow, the devastating impact on consumers' credit would remain for years to come. For that very reason, we must give folks a real chance at recovery and repair.

It is estimated that one in five Americans has a potential error on their credit report; but, for too long, credit reporting agencies have kept consumers in the dark and made it difficult to correct errors that do come to light. The Comprehensive CREDIT Act will ensure that consumers can quickly and easily rectify those errors.

At a time when wages are stagnant but the cost of housing, childcare, and education continue to rise, we should be working to provide our constituents pathways to financial stability and success. It is why this bill would restrict the use of credit scores for most hiring decisions, limit the amount of time that adverse information can remain on a person's credit profile, and ban the reporting of any debt as a result of medically necessary procedures.

I urge my colleagues to support the Comprehensive CREDIT Act and ensure a more equitable and transparent credit reporting system for all.

Mr. MCHENRY. Mr. Chair, I yield 2½ minutes to the gentleman from Missouri (Mr. LUETKEMEYER), who is the ranking member of the Consumer Protection and Financial Institutions Subcommittee.

Mr. LUETKEMEYER. Mr. Chair, the bill we are considering today is made of six extremely partisan pieces of legislation. This package will not receive substantial bipartisan support and is dead on arrival in the Senate.

Unfortunately, instead of working in a bipartisan manner to improve credit reporting for consumers, the majority has chosen to advance legislation that simply attacks an industry, to the consumers' detriment.

I think the ranking member made a number of points a while ago with regard to the willingness of the minority to advance a lot of different solutions to some of the concerns that we all have, yet they were not heard.

Each piece of legislation in this package has one of two goals—the first goal is to expand the authority of the CFPB over credit modeling; the second is to eliminate as much information from the credit report as possible—both of which will increase the cost of credit and make it even more difficult for low- and moderate-income families to receive a loan.

If the financial institution is unable to analyze a risk, it has to increase the cost to be able to cover the additional risk. It is just that simple.

In this Congress, we have had witness after witness come before our committee and praise and support the use of alternative credit modeling. Using alternative data can increase access to

credit, particularly for low-income consumers and the underbanked.

Instead of supporting efforts to modernize and increase credit access, the majority seems inclined to stifle innovation by requiring the CFPB, an unaccountable government agency, to determine what factors can be used in credit scoring. Putting the government in charge of establishing credit scores for consumers is a dangerous notion that strikes at the heart of economic freedom in this country.

By eliminating the information that appears on the credit report, my colleagues on the other side of the aisle are weakening one of the most objective and accurate ways to determine creditworthiness of borrowers.

If lenders can no longer rely on a credit report to reflect the actual risk of a borrower, the lender will be forced to increase their rates to ensure they are pricing the additional risk they are taking. This increased cost of credit will directly affect the individuals who are on the margins, notably low- and moderate-income borrowers.

While I think the majority may have good intentions with this legislation, government control of credit modeling and decreased access to credit for low-income families sounds like a disastrous recipe for our economy. That is why I am opposing the legislation, Mr. Chair, and I urge my colleagues to do so as well.

Ms. WATERS. Mr. Chair, I yield 3 minutes to the gentlewoman from Ohio (Mrs. BEATTY), who is the chairwoman of the Subcommittee on Diversity and Inclusion and a sponsor of legislation that is a part of this bill, H.R. 3621.

Mrs. BEATTY. Mr. Chair, I want to start by thanking Chairwoman WATERS and the House Democratic Caucus for bringing this package of bills to the House Floor, the Comprehensive CREDIT Act, which includes my bill, the Free Credit Scores for Consumers Act. This bill would require the three national consumer reporting agencies to include a free credit score with a consumer's free annual credit report.

Under the current law, Mr. Chair, every consumer is entitled to a free annual credit report from the three national credit reporting agencies but not a credit score.

It is important for consumers to have free access to the three-digit number that affects so much of their financial lives; yet too many Americans do not actually even know what their credit score is, how it is calculated, or where to find it. This bill would help remedy that problem.

Critics may say that consumers can already receive a free credit score online, but what they don't tell them is that these products use your credit data to sell to third parties so they can, in turn, market financial products back to you.

This bill allows consumers a one-stop shop to get their credit scores directly from the credit reporting agencies who hold the information that makes up those scores, no strings attached. Moreover, my bill would require more financial literacy information about credit scores and credit reports to be sent to consumers along with these reports.

I urge my colleagues on the other side to stand up for this bill, to stand up for their constituents, and to allow consumers to take greater control of their own financial data.

And do you know why they can do this? Because their constituents are our constituents, and they have asked for this. So we are asking them to vote ''yes'' on this piece of legislation.

Mr. MCHENRY. Mr. Chair, I yield 3½ minutes to the gentleman from Kentucky (Mr. BARR), the Republican ranking member of the Oversight and Investigations Subcommittee.

Mr. BARR. Mr. Chair, I rise today in strong opposition to H.R. 3621, a bill that has been misnamed as the Comprehensive CREDIT Act of 2020. A more appropriate title of the bill would be the ''Incomplete and Inaccurate Credit Act,'' because the bill's core purpose is to remove critically important predictive data from credit reports.

Even worse, the bill would give unprecedented authority to the Consumer Financial Protection Bureau to control, micromanage, and politicize the development of credit scoring models.

This bill and its authors trust in the abilities of unelected Washington bureaucrats to price risk for millions of Americans, which will result in higher cost and fewer choices for consumers and will harm low- and middle-income borrowers who are trying to build a credit profile.

The accurate pricing of risk is an essential element of a functioning economy. Pricing a loan, underwriting an insurance policy, or tailoring a line of credit for a borrower all require a reliance on risk-based metrics. Credit scores allow for a holistic view of a consumer's history with financial products and allow an institution to understand that consumer's ability to honor his or her obligations.

This bill would upend our current system of pricing risk by turning over the private sector's creditworthiness models to the government and placing a wildly unrealistic confidence in central planning rather than free enterprise.

My Democrat colleagues continue to believe that a centralized bureaucratic agency is the best and only option to fully protect consumers. The irony is that this bill would result in much less accurate credit scoring and would harm the very people my colleagues purport to help.

If you think that private credit scoring is flawed and disadvantages the borrowing public, just wait until the government is in charge. We continue to see the CFPB's incompetence on full display, and credit scoring will not be any different.

We need a credit reporting system that relies on accurate, risk-based, predictive metrics. Our goal should be to allow people with good credit to have access to financial products at a reasonable price and to provide means for people with lower scores to rebuild their credit on a path to a more prosperous future.

Putting credit reporting metrics in the hands of unelected bureaucrats and boxing out the private sector will make financial products more expensive and less available for all citizens and have detrimental downstream effects on our credit-based economy. Worse, it risks politicizing credit scores instead of assigning scores based on an accurate and fulsome credit history.

We should not replace the accountability of market forces and free enterprise with the unaccountability of government bureaucracy. This bill will politicize credit reporting by empowering an inherently political agency.

The question is not whether the CFPB will fail our constituents; it is how badly it will fail them.

Mr. Chair, I urge my colleagues to oppose this bill.

Ms. WATERS. Mr. Chair, I yield 3 minutes to the gentlewoman from North Carolina (Ms. ADAMS), who is a sponsor of one of the bills in this comprehensive legislative package, H.R. 3621.

Ms. ADAMS. Mr. Chair, I rise today to join my colleagues in support of H.R. 3621, the Comprehensive CREDIT Act.

I commend Chairwoman WATERS, Congresswoman PRESSLEY, and my colleagues for their leadership and dedication to ensuring that the credit reporting system works for everyone.

Our Nation's credit reporting system has an impact on hundreds of millions of Americans. Credit scores and credit reports are increasingly relied on for key decisionmaking by creditors, employers, insurers, and even law enforcement. However, it has been more than 15 years since Congress has enacted comprehensive reform of the credit reporting system.

In particular, I would like to focus on the consumers who have experienced financial distress due to inaccurate information on their credit reports.

When there is an error on a consumer report, the burden falls on the consumer. It can take months and even, in some cases, years to remove an error on a consumer's report, all the while the consumer's credit continues to suffer, potentially preventing them from receiving a much-needed loan or financing.

□ 1345

My bill, the Improving Credit Reporting for All Consumers Act, which is part of this larger package, would help consumers by making it easier for incorrect information to be removed swiftly and painlessly.

It would make much-needed improvements to the dispute process for consumers by providing a new right to appeal the results of initial disputes.

It would also require furnishers to retain better records of negative information and that consumers be provided copies of any documents used during the dispute process. All furnishers who regularly report negative information would also be required to notify customers about this practice and alert customers when they first send derogatory information.

The second portion of my bill prohibits credit reporting agencies from providing consumers with misleading and unfair information about the various credit monitoring services they offer.

Credit reporting agencies would also be prohibited from misleading consumers by describing certain products and services as free that are, in truth, provided at no charge only for a limited trial period before automatically converting into a paid subscription service.

The naysayers will say that my bill is well-meaning but significantly flawed because the dispute process would make things more complicated and difficult, but they would be wrong. The status quo is difficult and cumbersome, and too many consumers' lives, credit, and opportunities for healthy financial records hang in the balance.

Credit scores have a significant bearing on your ability to secure access to loans and other opportunities for upward economic mobility. This is an issue far too important, life-altering, and impactful. We must do all that we can to ensure that consumers are fully knowledgeable about their options and that they have the necessary protections available to them.

Mr. Chairman, I urge my colleagues to support this bold package.

Mr. MCHENRY. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. WILLIAMS), my colleague from Weatherford.

Mr. WILLIAMS. Mr. Chairman, I rise today in opposition to H.R. 3621.

As a business owner and lender, I know firsthand the value that complete and accurate credit reports have in making sound business decisions.

For any business that relies on financing, risk-based pricing is essential in order to offer each customer the lowest rate possible. Every time a deal is broken, the cost gets passed along to the next customer.

Your handshake is worth something. When you are trying to get a loan, people need to know that your signature is worth something as well.

In Texas, a deal is a deal, and you must always live up to your end of the bargain. For those customers who have been financially responsible and always paid their debts on time, they are rewarded with lower rates. For those borrowers who have not paid their debts on time, financial institutions are forced to price in this inherent risk.

Whether a person is buying a car, a private jet, or a cow, the lender needs to be paid back in order to be able to continue offering lines of credit to responsible people in their community.

Mr. Chair, I am concerned that this bill would take us down a path where lenders are receiving incomplete credit reports that have been scrubbed of all negative information. In other words, hiding information results in greater risk for the lender. This would make borrowing money more expensive for all customers since financial institutions will have a worse picture about who will be able to repay their debts and who will not.

Again, I remind you we say and always should remember: A deal is a deal.

Mr. Chair, I urge my colleagues to vote ''no'' on this bill.

Ms. WATERS. Mr. Chair, our next speaker is a sponsor of one of the bills in H.R. 3621. She will have an opportunity to correct the ranking member, who indicated the bill would remove negative credit after 2 years. It does not. She will clear that up and make sure that he understands the facts of our bill.

Mr. Chair, I yield 3 minutes to the gentlewoman from Michigan (Ms. TLAIB).

Ms. TLAIB. Mr. Chair, I thank Chairwoman WATERS and her intelligent, hardworking staff for their leadership on this bill.

I also thank my sister-in-service, Congresswoman AYANNA PRESSLEY, for spearheading this package of bills, the Comprehensive CREDIT Act of 2020. A new decade, a new way, as our chairwoman would say.

I am also proud that our package of bills before us today includes H.R. 3622, the Restoring Unfairly Impaired Credit and Protecting Consumers Act. We are all aware of how expensive medical bills are and how easily one sickness or accident can bring families to financial ruin. According to the Urban Institute, regardless of age, income, insurance status, or ethnicity, one in four individuals are at risk of losing their health, homes, credit standing, and financial security annually because of the harms of medical debt.

The bill prohibits the reporting of medically necessary debt often incurred for seeking lifesaving treatment and protects the credit profile of those struggling with medical debt by stopping the credit reporting agency from reporting this debt for 1 year, twice the current practice.

This bill also protects the survivors of financial abuse. A study by the Federal Trade Commission shows that 21 percent of consumers had verified errors in their credit report; 13 percent had errors that affected their credit scores; and 5 percent had errors serious enough to cause them to be denied or pay more for credit.

Our bill would make sure that fellow Americans suffering from circumstances beyond their control are not punished or left out of future opportunities to responsibly build and rebuild credit because of risk factors beyond their control.

By passing this bill, we will make it easier for our neighbors struggling to recover from predatory loans and fraudulent activity by requiring that credit reporting agencies remove negative information from credit reports relating to loans that are unfair, deceptive, abusive, and otherwise illegal.

Lastly, and probably the most transformative provision, this bill shortens the length of time that bad marks stay on your credit report from 7 years to 4 years.

This package will open up doors for economic opportunities for millions of people across our country. No one should be stopped from becoming a homeowner or bettering their life because of bad debt.

Mr. Chair, that is why I urge my colleagues to support this bill.

Mr. MCHENRY. Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. LYNCH), who is chairman of the Task Force on Financial Technology, and a sponsor of H.R. 3629, one of the bills that is making up this package.

Mr. LYNCH. Mr. Chairman, I thank the gentlewoman from California for her longtime leadership on this issue. I also thank my colleague, Ms. PRESSLEY from Massachusetts, for her work as well.

I am extremely grateful that the text of my bill, H.R. 3629, the Clarity in Credit Score Formation Act, which would require the Consumer Financial Protection Bureau to periodically evaluate the models and underlying algorithms used to measure consumer creditworthiness, has been made part of this measure.

I also appreciate the opportunity to speak in favor of my colleague's work, which is embodied in H.R. 3621, the Comprehensive CREDIT Act, which is before us today.

Mr. Chair, as we have heard throughout debate, credit reports and credit scores are an important part of American consumers' financial lives. Yet, despite that importance, we continue to see serious problems with the way creditworthiness is measured and with the credit models that the credit agencies use.

We know that consumers have consistently faced errors in their credit reports and that, oftentimes, those errors are serious enough to impact important opportunities in obtaining housing and other major financial decisions. These errors can lead directly to consumers being denied credit or paying substantially more for the credit that they do receive.

Despite complaints from my Republican colleagues, by expanding the pool of information used to make credit decisions, applicants and lenders actually won't have to rely solely on often-flawed data in credit reports, and consumers can get the credit they deserve for regularly paying their rent on time and their bills on time and more, without raising the cost to the system of doing so.

While these new uses of data can allow expanded access to credit, sometimes that same data can be misconstrued and result in unfair discrimination. We have seen this most clearly in the credit scores of our sons and daughters in uniform and military personnel in the Armed Forces.

It is customary that service to our Nation requires military families to move around fairly frequently as deployments and unit assignments change. Taken by itself and out of context, frequently moving your residence year to year can give the false impression to a credit agency that an applicant is not in a stable situation and can adversely impact their ability to access credit.

Other uses of data can be closely related to factors such as race or gender, or become a proxy for a protected class.

We have already seen examples of this. The Department of Housing and Urban Development has sued Facebook over its use of data-targeting, which violates the Fair Housing Act by adversely stereotyping families who live in public housing projects. Even Housing Secretary Carson has openly stated: ''Facebook is discriminating against people based upon who they are and where they live.''

The CHAIR. The time of the gentleman has expired.

Ms. WATERS. Mr. Chairman, I yield an additional 1 minute to the gentleman from Massachusetts.

Mr. LYNCH. These charges followed on the heels of charges that Facebook entered into a financial settlement after accusations that landlords, lenders, and employers improperly used that platform to unfairly discriminate against families seeking housing opportunities.

That is why we need clarity in credit score formation. That is why we need this bill.

Importantly, with the expansion of mobile banking, it requires a study on the impact of using nontraditional data on consumer reports and the use of alternative data in credit scoring models.

Much to Chairwoman WATERS' and Ms. PRESSLEY's credit, this is a very good bill that will help us harness the power of mobile technology and alternative data to improve outcomes for consumers.

Mr. Chair, in closing, I thank my colleagues, Mr. LAWSON of Florida, Mrs. BEATTY of Ohio, Ms. PRESSLEY of Massachusetts, Ms. TLAIB of Michigan, and Ms. ADAMS of North Carolina for their great contribution, along with Chairwoman WATERS, in making this successful legislation.

Mr. Chair, I urge a ''yes'' vote.

Mr. MCHENRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I submit for the RECORD page 114 of the bill, and I would highlight these sections, line 4, ''Maintenance of Credit Scores.''

''Subsection A: In General. All consumer credit reporting agencies shall maintain the consumer's file credit scores relating to the consumer for a period of 2 years from the date on which such information is generated.

''Subsection B: Disclosure Only to Consumers. A past credit score maintained in a consumer's file pursuant to subparagraph A may only be provided to the consumer to which the credit score relates and may not be included in a consumer report or used as a factor in generating a credit score or educational credit score.

''Subsection C: Removal of the Past Credit Scores. A past credit score maintained in a consumer's file pursuant to subparagraph A shall be removed from the consumer's file after the end of the 2-year period described under subparagraph A.''

This is the section of the bill that says that your consumer credit report can only be 2 years old—your score. Now, the data can be longer, but your score can only use 2 years of past data.

That is deeply problematic because, as we know, these things are more long-run occurrences. Creditworthiness doesn't happen overnight, nor do somebody's riskier habits happen overnight.

So for a 2-year period, we have not seen any testimony why 2 years is sufficient. The current industry standard is much longer than that, but each different user of this credit information can determine for themselves what that appropriate time is, and that is not mandated by current law.

□ 1400

So I find this troublesome, and problematic, and riskier than what we currently have in the law; and that is one of the components of this bill that I oppose. There are numerous other examples, but I know we will have more debate and I will be able to bring up those exact details as those on the other side tout the so-called benefits.

Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. LAWSON), who is the sponsor of H.R. 3614, one of the bills in this comprehensive package.

Mr. LAWSON of Florida. Mr. Chairman, I rise to support H.R. 3621, a bill that provides strong consumer protection for our Nation's borrowers.

Often, we talk about access to capital and how many communities across this country are either underbanked or shut out of the credit market altogether. This bill goes further than any other piece of legislation we have seen in protecting our Nation's student loan borrowers, potential hires from biased credit reporting, and guaranteeing that consumers have the necessary information to make informed financial decisions.

I am particularly thankful that this legislation includes my bill, H.R. 3614, that will limit the use of credit reports and credit scores to make hiring decisions.

As with access to capital, there are many barriers in accessing employment opportunities, particularly for communities of color and other marginalized groups based on several factors. One of these factors includes an individual's credit history.

Many people have fallen on hard times, had their identities stolen, or have become ill, which have negatively impacted their credit reports. But I ask, should that also impact their ability to become employed?

Should an arbitrary number based on obscure algorithms that make up a credit score shut someone out of being employed? The answer is no.

That is why this bill prohibits certain employers from using credit history to determine someone's eligibility to be employed. This bill is a much-needed solution in removing employment barriers.

As we move forward, I will continue to work with stakeholders to protect job applicants while also guaranteeing that organizations and companies can vet potential applicants adequately.

Mr. Chairman, I thank Congresswoman PRESSLEY, Chairwoman WATERS, and the committee staff who have worked tirelessly into the night to help draft this bill. I thank them for their advocacy on behalf of the Nation's consumers.

It is about time we help people gain greater access to the job market.

Mr. MCHENRY. Mr. Chairman, I reserve the balance of my time.

Ms. WATERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), who is the chairwoman of the Committee on Oversight and Reform.

Mrs. CAROLYN B. MALONEY of New York. Mr. Chair, I thank the chairwoman for yielding and for being such a leader on this issue and so many others.

I rise in strong support of H.R. 3621, and I want to thank my colleague, Ms. PRESSLEY, for her hard work on this bill.

Our credit reporting system is deeply flawed, and it affects millions of consumers every day. When there is an error on a consumer's credit report, it can harm their credit for years. Maybe their credit report says that they didn't pay a bill when they did, or maybe they confused them with another person.

These kinds of basic errors should be easy to fix, but unfortunately, they often take years to sort out. And in the meantime, consumers are being wrongfully denied credit or paying higher rates than they should.

This bill will solve these problems by reforming the dispute process in order to give consumers more rights and more opportunities to challenge bad information on their credit reports.

It also helps consumers who have burdensome student loans by removing negative credit information as soon as they can demonstrate that they have a history of timely repayment. This is incredibly important.

Finally, I want to thank Chairwoman WATERS for her tireless efforts on this

issue. She has focused on credit reporting for years, and I am very proud she was able to shepherd so many bills to the floor.

I urge a ''yes'' vote on this bill.

Ms. WATERS. Mr. Chairman, I would like to inquire, through the Chair, if my colleague has any remaining speakers on his side.

I have no further speakers and I am prepared to close.

Mr. MCHENRY. Mr. Chair, I yield myself such time as I may consume.

I include in the RECORD three documents in opposition to this bill. The first is a letter to Chairwoman WATERS and to me from the Consumer Data Industry Association expressing their opposition to this bill.

CONSUMER DATA INDUSTRY ASSOCIATION,
Washington, DC, January 23, 2020.

Hon. MAXINE WATERS, Chairwoman,
Hon. PATRICK MCHENRY, Ranking Member,
Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR CHAIRWOMAN WATERS AND RANKING MEMBER MCHENRY: On behalf of the Consumer Data Industry Association (CDIA), I want to share our opposition to H.R. 3621, the ''Comprehensive CREDIT Act of 2020.'' This approximately 200-page bill would impose new costs to consumers and the economy and negatively impact credit underwriting standards. We request that House Members vote no when the bill is considered.

As the trade association representing companies who provide consumer reporting services, we and our members strive to ensure that consumer credit reports are accurate, the information within them is protected and consumers are empowered to correct inaccurate information in a timely and straightforward fashion. Our member companies work constantly to improve the consumer reporting system by making technology and process improvements to enhance accuracy and improve the consumer experience.

OVERVIEW

The negative outcomes of H.R. 3621 would strike consumers, community banks, credit unions, automobile dealers, mortgage lenders, other non-bank lenders, data furnishers, employees and employers, insurers, property owners and consumer reporting agencies (CRAs). This legislation makes extensive and complicated changes to the consumer reporting industry and the rights and obligations established under the Fair Credit Reporting Act (FCRA), and will affect the entire credit allocation and risk management ecosystem; the bill is not solely targeted at CRAs.

In previous instances when Congress considered major FCRA changes, extensive hearings were held in the House and Senate, featuring consumers, regulators, the consumer reporting industry, data contributors and end users of credit reports, such as banks and retailers. In the past, this has resulted in legislation that was supported by most stakeholders and bi-partisan Congressional majorities. The legislation in this Congress was taken up by Committee after only a single hearing last February, which was not focused on specific legislative issues. We believe proceeding without additional scrutiny is a mistake, given the bill's complexity and its impact.

Consumer reports are a critical driver of economic growth and opportunity. Our economy relies on the ability of CRAs to interact with lenders, employers, insurers and others to enable consumers to access low-cost credit, employment opportunities and housing. The Federal Reserve noted, for example, that ''[a]vailable evidence indicates that [credit report] data and the credit-scoring models derived from them have substantially improved the overall quality of credit decisions and have reduced the costs of such decision-making. Almost certainly, consumers would receive less credit and the price of the credit they received would be higher, if not for the information provided by credit reporting companies.'' Current law provides consumers with a robust set of protections and rights. Ongoing debates regarding consumer privacy have shown that many, including consumer advocates, identify the FCRA as an example of effective consumer protection legislation and a model for other segments of the economy.

In 2010, Congress passed the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which established the Consumer Financial Protection Bureau (CFPB). That law gave CFPB authority over much of the consumer reporting system, and since then, oversight by the Bureau has resulted in significant improvements within the consumer reporting system; CRAs, furnishers and users of credit reports have adopted multiple changes increasing consumer report accuracy and improving the consumer dispute process.

If H.R. 3621 were to become law, consumers who pay their bills on time and manage their debts responsibly will pay more for credit than they do today. Consumers who have faced challenges with their credit will be worse off as well, as banks will lose the ability to accurately judge their credit history because key information will no longer appear on reports. The economy will suffer, as credit decisions will be based on fewer facts, and lenders will be forced to increase prices or reduce the amount of consumer credit available.

The legislation to be considered was passed by the Committee on Financial Services as six bills, now embodied in H.R. 3621. We communicated our concerns in a letter on July 6, 2019. Those concerns continue to be valid; the following highlights some of the concerns we raised then.

Mr. MCHENRY. The second document is a letter to Members of the House of Representatives expressing opposition to each of the bills that was included in this overarching bill, including opposition to: H.R. 3621, H.R. 3614, H.R. 3618, H.R. 3622, H.R. 3642, from the United States Chamber of Commerce.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
January 27, 2020.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce strongly opposes H.R. 3621, the ''Comprehensive Credit Act of 2020,'' which is composed of a number of bills regarding credit reporting that were reported out of the House Financial Services Committee in 2019.

The Chamber has previously expressed opposition to each of the bills below which are now included as part of this comprehensive package:

H.R. 3621, the ''Student Borrower Credit Improvement Act,'' would arbitrarily remove repayment information regarding student loans issued by private lenders. Reducing the quality of information in credit reports would in the aggregate reduce their utility, making it more difficult for consumers to access credit or other services.

H.R. 3614, the ''Restricting Use of Credit Checks for Employment Decisions Act,'' would restrict an employer from initiating a credit check of an employee despite the fact that the Fair Credit Reporting Act requires an employee to first provide consent. This legislation would make it more difficult for employers to review the backgrounds of prospective employees, which would make it more difficult to hire for sensitive positions or would otherwise delay the hiring process.

H.R. 3618, the ''Free Credit Scores for Consumers Act,'' would require credit bureaus to pay for and disclose for free a credit scoring model that is owned by a third party. Credit bureaus already provide ample information to consumers at no charge to assist them with understanding their credit standing. The legislation would make it more difficult for credit bureaus to provide for the accurate flow of useful information between consumers, furnishers, and entities that need to make informed decisions.

H.R. 3622, the ''Restoring Unfairly Impaired Credit and Protecting Consumers Act,'' would reduce the quality of credit reports by arbitrarily reducing the term of adverse information and instituting redundant remediation mechanisms. Disrupting the utility of information in credit reports would make it more difficult for credit providers, and nonfinancial entities such as telecommunications companies and utilities to efficiently provide their services to consumers.

H.R. 3642, the ''Improving Credit Reporting for All Consumers Act,'' would create dispute resolution requirements that are redundant to services voluntarily provided by credit bureaus and existing requirements under both the Fair Credit Reporting Act and a recent agreement among 38 State Attorneys General. Additionally, the legislation would frustrate the ability of credit bureaus to provide information to consumers by imposing new restrictions on the marketing of products intended to improve credit standing.

H.R. 3629, the ''Clarity in Credit Score Formation Act of 2019,'' would make the CFPB, not lenders, the de facto underwriter of consumer loans and is redundant to existing supervisory and regulatory authority. The CFPB currently supervises larger participants in consumer reporting under its authority in the Dodd-Frank Act and has broad regulatory authority via enforcement of the Fair Credit Reporting Act. Interference in the proprietary models developed by credit bureaus and used by lenders would increase lenders' risk and decrease their ability to provide objective information.

The Chamber urges you to oppose the Comprehensive Credit Act.

Sincerely,

NEIL L. BRADLEY.

Mr. MCHENRY. And finally, I include in the RECORD Statement of Administration Policy that says that the President would veto this bill.

STATEMENT OF ADMINISTRATION POLICY

H.R. 3621—COMPREHENSIVE CREDIT ACT OF 2020—REP. PRESSLEY, D–MA, AND REP. OCASIO-CORTEZ, D–NY

The Administration opposes passage of H.R. 3621, the Comprehensive CREDIT Act of 2020. The Administration supports measures to increase access to affordable consumer credit, but H.R. 3621 would do the opposite by reducing the efficiency of consumer lending markets and raising the cost of consumer credit.

H.R. 3621 would preclude credit reporting agencies from incorporating a range of relevant data into consumer reports, which would reduce their predictive value and raise borrowing costs for responsible borrowers. This legislation would also prevent the Federal Government from reporting information regarding debts arising out of criminal monetary penalties. Additionally, H.R. 3621

would empower the Bureau of Consumer Financial Protection to control the development of credit-scoring models, which would hinder market competition that drives innovation and improves modeling. Finally, this legislation would interfere with the ability of employers, including executive branch agencies, to make reasonable background investigation determinations with respect to candidates for sensitive positions.

If H.R. 3621 were presented to the President, his senior advisors would recommend that he veto it.

Mr. MCHENRY. Mr. Chairman, I might offer to the chair of the committee at some point to frame the Statement of Administration Policy on vetoes of some of her bills this Congress. That may be a badge of honor. I say that in a lighthearted manner, not in an aggressive way, for sure.

Mr. Chairman, in closing, this is a partisan bill under the guise of consumer protection that will destroy the accuracy and completeness of consumer credit files.

Moreover, this bill continues the Democrats' trend of failing to address the underlying causes of the student loan crisis; the underlying causes of medical debt; the underlying causes of homelessness.

Instead, this bill will jeopardize credit for low and middle-income Americans disproportionately; Americans who fight to pay their bills each month; make good on their obligations; and have taken the time to improve their financial situations over time and become eligible for credit.

What my colleagues fail to understand is this: This bill will weaken underwriting standards. That strikes at safety and soundness. It will make extending credit riskier and more expensive for consumers, ultimately impacting both the costs and accessibility of credit for all Americans.

This bill alters the very foundation for extending credit in our financial system which is the ability to assess risk.

This bill will drive us to a riskier financial situation and financial system. It is a bad bill.

This bill that we are considering today will fundamentally alter the way credit is extended in this country, and not for the better.

So let's be clear on what this bill does. It socializes credit modeling and reporting.

This bill gives the CFPB the ability to develop, maintain, and regulate credit modeling and factors used in analysis.

This bill prevents employers from knowing the creditworthiness of employees.

This bill is a giveaway to trial attorneys, creating four new re-investigation and appeals processes to be exploited by the trial bar.

This bill will make it more difficult for private lenders to compete in the student loan industry dominated by the Federal Government by allowing delinquent borrowers or borrowers who have defaulted on a loan to make changes to their credit outside of the contractual obligations and contractual terms they have agreed to.

As I said earlier, bipartisan compromise was within reach. All my colleagues had to do was reach out and grab it. Instead, they chose to push through another partisan bill that is going nowhere in the Senate and will be vetoed—if it were to even make it through the United States Senate—vetoed by the President.

And this has been a tremendous waste of time for the American people, a tremendous waste of time, when we have very important issues to wrestle with as a Congress and as a country.

So I urge my colleagues to vote ''no'' on socializing credit reporting.

Mr. Chairman, I yield back the balance of my time.

Ms. WATERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chair, I include in the RECORD a letter from the Americans for Financial Reform and the 85 undersigned consumer, civil rights, labor, and community organizations who wrote to express their support for H.R. 3621, and a letter from the National Association of Realtors.

AMERICANS FOR FINANCIAL REFORM,
January 27, 2020.

DEAR REPRESENTATIVE: The 85 undersigned consumer, civil rights, labor, and community organizations write to express our support for HR 3621, the Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency Act of 2020 (Comprehensive CREDIT Act of 2020).

Credit reports and credit scores play a critical role in the economic lives of Americans. They are the gatekeeper for affordable credit, insurance, rental housing, and sometimes unfortunately even a job. Yet they suffer from unacceptable rates of inaccuracy. This bill would enact a sea change that would make the American credit reporting system more accurate and fairer to consumers.

The Federal Trade Commission's definitive study showed that 21% of consumers had verified errors in their credit reports, 13% had errors that affected their credit scores, and 5% had errors serious enough to cause them to be denied or pay more for credit. Trying to fix these errors can be a Kafkaesque nightmare in which the Big Three nationwide consumer report agencies (CRAs)—Equifax, Experian and TransUnion—consistently favor the side of the creditor or debt collector (''the furnisher'') over the consumer.

The American credit reporting systems suffers from a number of other flaws and defects. Consumers are unfairly penalized by negative credit reporting when they have been the victim of abusive practices, such as predatory mortgages or student loans resulting from for-profit school fraud, or due to circumstances out of their control, such as temporary job loss, illness, or financial abuse by a family member. Healthcare bills contribute greatly to credit reporting harms, with over 50% of debt collection items resulting from medical debt.

Consumers also lack the right to a free annual credit score. Furthermore, many consumers who attempt to obtain a free annual credit report or to obtain their scores are misled into purchasing high-priced credit monitoring or other subscription services. These services are also marketed to prevent identify theft, yet they are far less effective in doing so than a security freeze. This legislation comprehensively addresses all of these abuses, and more. This bill would:

Fix the broken system for credit reporting disputes by (1) giving consumers a new right to appeal the results of initial disputes; (2) requiring CRAs and furnishers of information to dedicate sufficient resources and provide well-trained personnel to handle disputes; (3) requiring CRAs to conduct an independent analysis of disputes, separate from that of the furnisher; and (4) requiring furnishers to retain records for the same time period that negative information remains on reports.

Improve credit reporting accuracy by directing the Consumer Financial Protection Bureau (CFPB) to establish accuracy regulations, including requiring CRAs to better monitor furnishers for high error rates and to use stricter criteria to match information from a lender to a consumer's file, preventing the worst type of credit reporting error, the ''mixed file.''

Restrict the use of credit information for employment by limiting it to two narrow instances—when required by local, state or federal law or for national security clearances. This will severely limit a practice that discriminates against the long-term unemployed, has a disparate impact on communities of color, and has very little evidence demonstrating its effectiveness in predicting job performance.

Help victims of abusive lending and overly punitive negative reporting practices by (1) reducing the current overlong retention periods that adverse credit information remains on reports to four years (seven years for bankruptcies); (2) allowing borrowers victimized by the unfair, deceptive or abusive practices of mortgage lenders or servicers to have adverse mortgage-related information removed; and (3) requiring the removal of negative information about private education loans that were obtained to attend for-profit colleges found to have engaged in unfair or deceptive practices.

Protect consumers from the unfair impact of medical debt by prohibiting CRAs from including medical collections on reports until 365 days from the date of first delinquency and prohibiting the reporting of any debt for medically necessary procedures. This will ensure that consumers have time to resolve their complex, confusing medical bills. The bill also mandates that all paid or settled debt, including medical collections, be removed within 45 days from reports.

Help consumers understand their creditworthiness by giving consumers the right to a free credit score at the same time that they obtain their free annual consumer report. The bill also creates several new instances in which consumers are entitled to receive both free reports and scores, including requiring auto, private education and mortgage lenders to provide prospective loan borrowers the same free reports and scores that the lenders used in their decision-making before consumers sign those loan agreements.

Address misleading marketing of credit monitoring subscriptions and increase access for security freezes to prevent identity theft by (1) prohibiting the misleading practice of automatically converting free trial periods into paid, monthly subscription services by requiring CRAs to provide explicit opt-ins at the end of the promotions and (2) providing free credit freezes for security breach victims and vulnerable consumers, and capping the cost for all other consumers.

Give a second chance to struggling private education loan borrowers by allowing them to rehabilitate impaired credit records through requiring removal of adverse information about delinquent or defaulted loans if they are able to make nine out of ten on-time, monthly payments.

Correct provisions in last year's deregulatory law, S2155, that unwisely preempted states from further improvements to the credit freeze laws and provided servicemembers with a credit monitoring right without a remedy.

These credit reporting reforms are urgently needed in order to ensure that consumers are treated fairly and that the credit reporting system that underlies so many daily transactions works better for the public.

We look forward to working with you to swiftly pass this bill to better protect consumers.

Thank you for your attention.

Sincerely,

Americans for Financial Reform; A2Z Real Estate Consultants; African American Health Alliance; Alaska Public Interest Research Group; Allied Progress; Arkansas Community Organizations; BREAD Organization; CAFE Montgomery MD; Center for Digital Democracy; Cleveland Jobs with Justice; Community Action Human Resources Agency (CAHRA); Congregation of Our Lady of the Good Shepherd, US Provinces; Connecticut Fair Housing Center; Consumer Action; Consumer Federation of America; Consumer Federation of California; Consumer Reports.

CWA Local 1081; Delaware Community Reinvestment Action Council, Inc.; Demos; Denver Area Labor Federation; East Bay Community Law Center; FAITH IN TEXAS; Famicos Foundation; FLARA; Florida Alliance for Consumer Protection; Greater Longview United Way; Groundcover News; Habitat for Humanity of Camp Co, TX; Hawaiian Community Assets; Housing Action Illinois; Housing and Family Services of Greater New York, Inc.

Mary House, Inc.; Maryland Consumer Rights Coalition; Miami Valley Fair Housing Center, Inc.; Mobilization for Justice Inc.; Montana Organizing Project; Multi-Cultural Real Estate Alliance For Urban Change; National Advocacy Center of the Sisters of the Good Shepherd; National Association of Consumer Advocates; National Association of Social Workers; National Association of Social Workers West Virginia Chapter; National Center for Law and Economic Justice; National Consumer Law Center (on behalf of its low-income clients); National Consumers League; National Fair Housing Alliance; National Housing Law Project; National Housing Resource Center.

National Rural Social Work Caucus; New Economics for Women; New Jersey Citizen Action; New Jersey Tenants Organization; New York Legal Assistance Group; North Carolina Council of Churches; Partners In Community Building, Inc.; PathWays PA; Pennsylvania Council of Churches; People Demanding Action; Progressive Leadership Alliance of Nevada; Project IRENE; Prosperity Now; Public Citizen; Public Justice Center; Public Law Center; Public Utility Law Project of New York.

Rocky Mountain Peace and Justice Center; SC Appleseed Legal Justice Center; Sisters of Mercy South Central Community; Society of St. Vincent de Paul; St. Paul UMC; Tennessee Citizen Action; The Center for Survivor Agency and Justice; The Disaster Law Project; The Greenlining Institute; The Leadership Conference on Civil and Human Rights; THE ONE LESS FOUNDATION; Tzedek DC; U.S. PIRG; Urban Asset Builders, Inc.; Virginia Citizens Consumer Council; Virginia Poverty Law Center; West Virginia Center on Budget and Policy; Wildfire; Woodstock Institute; WV Citizen Action Group.

JANUARY 27, 2020.

Hon. MAXINE WATERS,

Chairwoman, House Committee on Financial Services, Washington, DC.

DEAR CHAIRWOMAN WATERS AND RANKING MEMBER MCHENRY: On behalf of the 1.4 million members of the National Association of REALTORS® (NAR), NAR is pleased to support H.R. 3621, the ''Comprehensive Credit Act of 2020.''

Nearly 70 percent of home sales are financed and a borrower's credit report and credit score form a critical gateway to obtaining a mortgage. Unfortunately, inaccurate credit reports and unfair credit reporting methods raise the cost and/or limit access to mortgage credit for many prospective borrowers. To this end, NAR applauds H.R. 3621, the ''Comprehensive Credit Act of 2020,'' which include the following bills.

H.R. 3618, the ''Free Credit Scores for Consumers Act of 2019''

H.R. 3621, the ''Student Borrower Credit Improvement Act''

H.R. 3622, the ''Restoring Unfairly Impaired Credit and Protecting Consumers Act''

H.R. 3642, the ''Improving Credit Reporting for All Consumers Act''

H.R. 3629, the ''Clarity in Credit Score Formation Act of 2019''

REALTORS® believe that balanced financial regulation and appropriate consumer protection will result in a more vibrant housing market and overall economy. Furthermore, creditor and consumer confidence is critical in the home financing process. REALTORS® thank you for your diligent work to improve the accuracy, consistency, and availability of quality credit scoring and appraisal information.

Sincerely,

VINCE MALTA,

2020 President, National Association of REALTORS®.

Ms. WATERS. Mr. Chair, first, I would like to thank all of the participants in this comprehensive package. I would like to thank Ms. PRESSLEY, as the sponsor of this comprehensive piece of legislation, Mr. LAWSON, Ms. ADAMS, Mrs. BEATTY, Mr. LYNCH, and Ms. TLAIB, for all of the work that they put in to ensure that we were covering the years of complaints that we have gotten about our credit bureaus and the mishandling of our consumers and a lack of protection for consumers who have suffered at the hands of our credit bureaus who did not take into consideration these very serious complaints.

So, Mr. Chairman, the Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency, this act, makes much-needed and overdue reforms to improve the credit reporting system. The issues addressed by this bill are important for the economic well-being of millions of Americans and our economy.

As we have discussed, the bill is supported by, again, Americans for Financial Reform, the National Association of Consumer Advocates, and the National Association of Realtors. So, with all of this support, and with consumers who have been waiting for years for their Representatives to do something about the fact that their data is all in the hands of these credit bureaus who are determining whether or not they can acquire credit; whether or not they are going to be able to get a loan; whether or not they are going to be able to have a decent quality of life because they have done everything that they could do to have good credit; and that when they have said to the credit bureaus, there is an error, they have got me mixed up with someone else, and they cannot get this straightened out for them, and they suffer.

So the time has come, and I am so very pleased that my committee is answering all of the requests from our constituents and your constituents and all of the constituents of Representatives in this body, to do something. The time is now, and we are doing that. This comprehensive piece of legislation will absolutely deal with these concerns that have been identified for so long.

I urge all Members who care about their constituency, who have been hearing these issues for so many years, I urge them to vote ''yes'' on this bill.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR (Mr. PAYNE). All time for general debate has expired.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Financial Services, printed in the bill, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116–47, modified by the amendment printed in part A of House Report 116–383, shall be considered as adopted. The bill, as amended, shall be considered as an original bill for purpose of further amendment under the 5-minute rule, and shall be considered as read.

The text of the bill, as amended, is as follows:

H.R. 3621

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency Act of 2020'' or the ''Comprehensive CREDIT Act of 2020''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. FINDINGS.

Congress finds the following:

(1) GENERAL FINDINGS ON CREDIT REPORTING.—

(A) Consumer reporting agencies (''CRAs'') are companies that collect, compile, and provide information about consumers in the form of consumer reports for certain permissible statutory purposes under the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) (''FCRA''). The three largest CRAs in this country are Equifax, TransUnion, and Experian. These CRAs are referred to as nationwide CRAs and the reports that they prepare are commonly referred to as credit reports. Furnishers, such as creditors, lenders, and debt collection agencies, voluntarily submit information to CRAs about their accounts such as the total amount for each loan or credit limit for each credit card and the consumer's payment history on these products. Reports also include identifying information about a consumer, such as their birthdate, previous mailing addresses, and current and previous employers.

(B) In a December 2012 paper, ''Key Dimensions and Processes in the U.S. Credit Reporting System: A review for how the nation's largest credit bureaus manage consumer data'', the Bureau of Consumer Financial Protection (''Consumer Bureau'') noted that the three nationwide CRAs maintain credit files on approximately 200 million adults and receive information from about 10,000 furnishers. On a monthly basis, these furnishers provide information on over 1.3 billion consumer credit accounts or other trade lines.

(C) The 10 largest institutions furnishing credit information to each of the nationwide CRAs account for more than half of all accounts reflected in consumers' credit files.

(D) Consumer reports play an increasingly important role in the lives of American consumers. Most creditors, for example, review these reports to make decisions about whether to extend credit to consumers and what terms and conditions to offer them. As such, information contained in these reports affects whether a person is able to get a private education loan to pay for college costs, to secure a mortgage loan to buy a home, or to obtain a credit card, as well as the terms and conditions under which consumer credit products or services are offered to them.

(E) Credit reports are also increasingly used for many noncredit decisions, including by landlords to determine whether to rent an apartment to a prospective tenant and by employers to decide whether to hire potential job applicants or to offer a promotion to existing employees.

(F) CRAs have a statutory obligation to verify independently the accuracy and completeness of information included on the reports that they provide.

(G) The nationwide CRAs have failed to establish and follow reasonable procedures, as required by existing law, to establish the maximum level of accuracy of information contained on consumer reports. Given the repeated failures of these CRAs to comply with accuracy requirements on their own, legislation is intended to provide them with detailed guidance improving the accuracy and completeness of information contained in consumer reports, including procedures, policies, and practices that these CRAs should already be following to ensure full compliance with their existing obligations.

(H) The presence of inaccurate or incomplete information on these reports can result in substantial financial and emotional harm to consumers. Credit reporting errors can lead to the loss of a new employment opportunity or a denial of a promotion in an existing job, stop someone from being able to access credit on favorable terms, prevent a person from obtaining rental housing, or even trigger mental distress.

(I) Current industry practices impose an unfair burden of proof on consumers trying to fix errors on their reports.

(J) Consumer reports containing inaccurate or incomplete credit information also undermine the ability of creditors and lenders to effectively and accurately underwrite and price credit.

(K) Recognizing that credit reporting affects the lives of almost all consumers in this country and that the consequences of errors on a consumer report can be catastrophic for a consumer, the Consumer Bureau began accepting consumer complaints about credit reporting in October 2012.

(L) As of early December 2019, the Consumer Bureau has handled approximately 391,560 credit reporting complaints about the top three CRAs, making credit reporting consistently in the top third most-complained-about subject matter on which the Consumer Bureau accepts consumer complaints. Incorrect information in reports and frustrations about burdensome and time-consuming process to disputing items is are consistently top reported concerns from consumers.

(M) Other common types of credit reporting complaints submitted to the Consumer Bureau related to the improper use of a report, trouble obtaining a report or credit score, CRAs' investigations, and credit monitoring or identity protection.

(N) In the fall 2019 ''Supervisory Highlights'', the Consumer Bureau noted that one or more of the largest CRAs continue to struggle to adequately oversee furnishers to ensure that they were adhering to the CRA's vetting policies and to establish proper procedures to verify public record information.

(O) According to the fall 2016 ''Supervisory Highlights'', Consumer Bureau examiners determined that one or more debt collectors never investigated indirect disputes that lacked detail or were not accompanied by attachments with relevant information from the consumer. Examiners also found that notifications sent to consumers about disputes considered frivolous failed to identify for the consumers the type of material that they could provide in order for the debt collector to complete the investigation of the disputed item.

(P) A February 2014 Consumer Bureau report titled ''Credit Reporting Complaint Snapshot'' found that consumers are confused about the extent to which the nationwide CRAs are required to provide them with validation and documentation of a debt that appears on their credit report.

(Q) As evidence that the current system lacks sufficient market incentives for CRAs to develop more robust procedures to increase the accuracy and completeness of information on credit reports, litigation discovery documented by the National Consumer Law Center (''NCLC''), as part of a February 2019 report titled ''Automated Injustice Redux: Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors'', showed that at least two of the three largest CRAs use quota systems to force employees to process disputes

hastily and without the opportunity for conducting meaningful investigations. At least one nationwide CRA only allowed dispute resolution staff five minutes to handle a consumer's call. Furthermore, these CRAs were found to have awarded bonuses for meeting quotas and punished those who didn't meet production numbers with probation.

(R) Unlike most other business relationships, where consumers can register their satisfaction or unhappiness with a particular credit product or service simply by taking their business elsewhere, consumers have no say in whether their information is included in the CRAs databases and limited legal remedies to hold the CRAs accountable for inaccuracies or poor service.

(S) Accordingly, despite the existing statutory mandate for CRAs to follow reasonable procedures to assure the maximum possible accuracy of the information whenever they prepare consumer reports, numerous studies, the high volume of consumer complaints submitted to the Consumer Bureau about incorrect information on consumer reports, and supervisory activities by the Consumer Bureau demonstrate that CRAs continue to skirt their obligations under the law.

(2) INCORRECT INFORMATION ON CONSUMER REPORTS.—

(A) Consumers are entitled to dispute errors on their consumer reports with either the CRA, who issued the report, or directly with furnishers, who supplied the account information to the CRA, and request that mistakes be deleted or removed. Consumers, who believe an investigation has not correctly resolved their dispute, however, have few options, other than requesting that a statement about the dispute be included with their future reports.

(B) CRAs have a statutory obligation under the FCRA to perform a reasonable investigation by conducting a substantive and searching inquiry when a consumer disputes an item on their report. In doing so, CRAs must conduct an independent review about the accuracy of any disputed item and cannot merely rely on a furnisher's ''rubber-stamp'' verification of the integrity of the information they have provided to CRAs.

(C) In ''Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003'' released by the Federal Government in December 2012, found that 26 percent of survey participants identified at least one potentially material error on their consumer reports, and 13 percent experienced a change in their credit score once the error was fixed.

(D) Consumer Bureau examiners have identified repeated deficiencies with the nationwide CRAs' information collection. In the fall 2019 ''Supervisory Highlights'', the Consumer Bureau noted continued weaknesses with CRAs' methods and processes for assuring maximum possible accuracy in their reports. Examiners also found, with certain exceptions, no quality control policies and procedures in place to test consumer reports for accuracy.

(E) In its ''Credit Reporting Complaint Snapshot'' released in February 2014, the Consumer Bureau found that consumers were uncertain about the depth and validity of the investigations performed about a disputed item. Consumers also expressed frustration that, even though they provided supporting materials that they believed demonstrated the inaccuracy of the information provided by furnishers, errors continued to remain on their reports.

(F) In the winter 2015 ''Supervisory Highlights'' released in March 2015, the Consumer Bureau reported that one or more nationwide CRAs failed to adequately fulfill their dispute-handling obligations, including by not forwarding to furnishers all relevant information found in letters and supporting documents supplied by consumers when they submitted disputes failing to notify consumers that they had completed investigations, and not providing consumers with the results of the CRAs' reviews about their disputes.

(G) Consumer Bureau examiners also noted in the fall 2016 ''Supervisory Highlights'' released in October 2016 that one or more entities failed to provide adequate guidance and training to staff about how to differentiate FCRA disputes from general customer inquiries, complaints, or debt validation requests. Consumer Bureau supervisors also directed one or more entities to develop and implement reasonable procedures to ensure that direct and indirect disputes are appropriately logged, categorized, and resolved.

(H) Consumers' increasing frustration about the difficulties of trying to fix credit reporting errors, evidenced through the volume of consumer complaints related to errors submitted to the Consumer Bureau, are also echoed in another Federal Government study issued in January 2015. In the ''Report to Congress under Section 319 for the Fair and Accurate Credit Transactions Act of 2003'', the study found that nearly 70 percent (84 people) of participants from a previous survey that had filed disputes with CRAs continued to believe that at least some of the disputed information remained inaccurate at the time of the follow-up survey. Despite these views, 50 percent (42 people) of the survey participants decided to just give up trying to fix the errors, with only 45 percent (38 people) of them planning to continue to try to resolve their disputes.

(I) The consistently high volume of consumer complaints submitted to the Consumer Bureau about credit reporting errors, coupled with the largest CRAs' repeated quality control weaknesses found by Consumer Bureau examiners, show that the nationwide CRAs have failed to establish and follow reasonable procedures to assure maximum accuracy of information and to conduct independent investigations of consumers' disputes. These ongoing problems demonstrate the need for legislation to—

(i) enhance obligations on furnishers to substantiate information and require furnishers to keep records for the same amount of time that adverse information about these accounts may appear on a person's consumer report;

(ii) eliminate CRAs' discretion to determine the relevancy of materials provided by consumers to support their dispute claims by instead requiring them to pass all material onto furnishers and eliminating CRA's discretion to deem some disputes frivolous or irrelevant when a consumer resubmits a claim that they believe has been inadequately resolved;

(iii) enhance educational content on CRAs' websites to improve consumers' understanding of the dispute process and to make it easier for all consumers to initiate claims, including by providing these disclosures in other languages besides English; and

(iv) create a new consumer right to appeal reviews by CRAs and furnishers of the initial disputes.

(3) INJUNCTIVE RELIEF.—

(A) Despite the fact that the FCRA currently provides implicit authority for injunctive relief, consumers have been prevented from exercising this right against CRAs. Legislation explicitly clarifying this right is intended to underscore congressional intent that injunctive relief should be viewed as a remedy available to consumers.

(B) Myriad findings by the courts, regulators, consumers, and consumer advocates make clear that CRAs have failed to establish adequate standards for the accuracy and completeness of consumer reports, yet the nationwide CRAs have demonstrated little willingness to voluntarily retool their policies and procedures to fix the problems.

(C) Providing courts with explicit authority to issue injunctive relief, by telling the CRAs to remedy unlawful practices and procedures, would further CRAs' mandate under the FCRA to assure the maximum possible accuracy and completeness of information contained on credit reports.

(D) Absent explicit authority to issue injunctions, history suggests that the nationwide CRAs are likely to continue conducting business as usual in treating any monetary settlements with individual consumers and fines imposed by State attorneys general and Federal regulators, simply as the ''cost of doing business''.

(4) CREDIT SCORES.—

(A) While nationwide CRAs are required by law to supply consumers with a free copy of their credit report annually, they can charge consumers to obtain a credit score disclosure.

(B) Many consumers do not realize that they have more than just ''one'' credit score. Because the submission of credit information to CRAs is voluntary and not all furnishers submit information to every CRA, the information contained in a report also varies among CRAs. As a result, the credit score generated by each CRA is also likely to vary, resulting in potentially different credit decisions based on an evaluation of different credit reports obtained from different CRAs.

(C) A February 2015 Consumer Bureau report titled ''Consumer Voices on Credit Reports and Scores'' found that consumers had questions about what actions to take to improve their scores once they had seen them, suggesting that additional disclosures and educational content would be helpful to consumers. The Consumer Bureau found that consumers were confused by conflicting advice on how to improve their scores.

(D) That report also noted that consumers found the process for obtaining consumer reports and credit scores confusing. Consumers also were uncertain about whether, and under what circumstances, they could obtain a consumer report for free.

(5) PRIVATE EDUCATION LOANS.—

(A) The Consumer Bureau's October 2014 report titled ''Annual Report of the CFPB Student Loan Ombudsman'' noted many private education loan borrowers, who sought to negotiate a modified repayment plan when they were experiencing a period of financial distress, were unable to get assistance from their loan holders, which often resulting in them defaulting on their loans. This pattern resembles the difficulty that a significant number of mortgage loan borrowers experienced when they sought to take responsible steps to work with their mortgage loan servicer to avoid foreclosure during the Great Recession.

(B) Although private student loan holders may allow a borrower to postpone payments while enrolled in school full-time, many limit this option to a certain time period, usually 48 to 66 months. This limited time period may not be sufficient for those who need additional time to obtain their degree or who want to continue their education by pursing a graduate or professional degree. The Consumer Bureau found that borrowers who were unable to make payments often defaulted or had their accounts sent to collections before they were even able to graduate.

(6) DECEPTIVE PRACTICES AT CERTAIN PROPRIETARY EDUCATION INSTITUTIONS AND CAREER EDUCATION PROGRAMS.—

(A) NCLC cited the proliferation of law enforcement actions against many for-profit schools in its June 2014 report, titled ''Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-profit Schools'', to demonstrate the pervasive problem in this sector of targeting low-income students with deceptive high-pressure sales techniques involving inflated job placement rates and misleading data on graduate wages, and false representations about the transferability of credits and the employability of graduates in occupations that require licensure. Student loan borrowers at these schools may be left with nothing but worthless credentials and large debt. Those who default on their student loans face years with damaged credit that will adversely impact their ability to rent or buy homes, purchase cars, and find employment.

(B) The closure and bankruptcy of Corinthian Colleges, which was found to have deceived students by steering them into high-interest student loans based on misleading graduation rates and employment data, is a good example of the problem. Even after its closure, many Corinthian students remained saddled with student loan debt, worthless degrees, and few prospects for employment.

(C) Attending a two-year, for-profit college costs, on average, four times as much as attending a community college. Students at for-profit colleges represent only about 11 percent of the total higher education population but a startling 44 percent of all Federal student loan defaults, according to the United States Department of Education (''DOE'').

(D) According to NCLC, a disproportionate number of for-profit students are low-income and people of color. These schools target veterans, working parents, first-generation students, and non-English speaking students, who may be more likely than their public or private nonprofit school counterparts to drop out, incur enormous student debt, and default on this debt. In the 2011–2012 school year, 28 percent of African Americans and 15 percent of Latinos attending four-year institutions were enrolled in a for-profit school, compared to 10 percent of Whites.

(E) As highlighted in a press release titled ''Obama Administration Announces Final Rules to Protect Students from Poor-Performing Career College Programs'', that was issued by the DOE on October 30, 2014, ''[t]oo often, students at career colleges—including thousands of veterans—are charged excessive costs, but don't get the education they paid for. Instead, students in such programs are provided with poor quality training, often for low-wage jobs or in occupations where there are simply no job opportunities. They find themselves with large amounts of debt and, too often, end up in default. In many cases, students are drawn into these programs with confusing or misleading information.''.

(7) MEDICAL DEBT.—

(A) Research by the Consumer Bureau has found that the inclusion of medical collections on consumer reports has unfairly reduced consumers' credit scores.

(B) The Consumer Bureau's review of 5 million anonymized credit files from September 2011 to September 2013, for example, found that credit scores may underestimate a person's creditworthiness by up to 10 points for those who owe medical debt, and may underestimate a person's creditworthiness by up to 22 points after the medical debt has been paid. For consumers with lower credit scores, especially those on the brink of what is considered subprime, a 10 to 22 point decrease in their credit scores can have a significant impact on their lives, including by affecting whether they are able to qualify for credit and, if so, the terms and conditions under which it is extended to them.

(C) The Consumer Bureau found that half of all collections trade lines that appear on consumer reports are related to medical bills claimed to be owed to hospitals and other medical providers. These trade lines affect the reports of nearly 1/5 of all consumers in the credit reporting system.

(D) The Consumer Bureau has found that there are no objective or enforceable standards that determine when a debt can or should be reported as a collection trade line. Because debt buyers and collectors determine whether, when, and for how long to report a collection account, there is only a limited relationship between the time period reported, the severity of a delinquency, and when or whether a collection trade line appears on a consumer's credit report.

(E) Medical bills can be complex and confusing for many consumers, which results in consumers' uncertainty about what they owe, to whom, when, or for what, that may cause some people, who ordinarily pay their bills on time, to delay or withhold payments on their medical debts. This uncertainty can also result in medical collections appearing on consumer reports. In a December 2014 report titled ''Consumer Credit Reports: A Study of Medical and Non-Medical Collections'', the Consumer Bureau found that a large portion of consumers with medical collections show no other evidence of financial distress and are consumers who ordinarily pay their other financial obligations on time. Unlike with most credit products or services, such as credit cards, installment loans, utilities, or wireless or cable services that have contractual account disclosures describing the terms and conditions of use, most consumers are not told what their out-of-pocket medical costs will be in advance. Consumers needing urgent or emergency care rarely know, or are provided, the cost of a medical treatment or procedure before the service is rendered.

(F) The Consumer Bureau concluded that the presence of medical collections is less predictive of future defaults or serious delinquencies than the presence of a nonmedical collection in a study titled ''Data Point: Medical Debt and Credit Scores'', issued in May 2014.

(G) FICO's latest credit scoring model, ''FICO 9'', changes the treatment of paid collections to disregard any collection matters that the consumer has paid in full. FICO 9, however, is not yet widely used by lenders.

(H) VantageScore's latest credit scoring model, ''VantageScore 4.0'', will be available in the fall of 2017. This model will penalize medical collections less than non-medical ones.

(I) The three nationwide CRAs entered into a settlement agreement with the New York State attorney general in 2015 to address deficiencies in their dispute resolution process and enhance the accuracy of items on reports. These policy changes will be implemented in a three-phrased rollout, culminating by June 2018. Subsequently, these CRAs entered into a cooperative agreement with 31 State Attorneys General, which was the basis of the creation of the National Consumer Assistance Plan (''NCAP'') to change some of their business practices.

(J) While the CRAs appear to be voluntarily adopting policy changes on a nationwide basis, they are not obligated to do so for consumers who reside in States that are not party to any of the consent orders.

(K) As a result of the settlement agreements, the three nationwide CRAs will set a 180-day waiting period before including medical collections on a report and will remove a medical collection from a report once it is paid by an insurance company. While this change will benefit many, once a medical collection appears on a report, it will only be deleted or suppressed if it is found to have been the insurance company's obligation to pay and the insurer pays it. Given the research showing there is little predictive value in medical debt information, medical collections that are paid or settled should quickly be removed from a report, regardless of who pays or settles this debt.

(8) FINANCIAL ABUSE BY KNOWN PERSONS.—

(A) Financial abuse and exploitation are frequently associated with domestic violence. This type of abuse may result in fraudulent charges to a credit card or having fraudulent accounts created by the abuser in the survivor's name that could affect ratings by CRAs. Financial abuse may also result in the survivor's inability to make timely payments on their valid obligations due to loss or changes in income that can occur when their abuser steals from or coerces the survivor to relinquish their paychecks or savings that could affect ratings by CRAs.

(B) By racking up substantial debts in the survivor's name, abusers are able to exercise financial control over their survivors to make it economically difficult for the survivor, whose credit is often destroyed, to escape the situation.

(C) Domestic abuse survivors with poor credit are likely to face significant obstacles in establishing financial independence from their abusers. This can be due, in part, because consumer reports may be used when a person attempts to obtain a checking account, housing, insurance, utilities, employment, and even a security clearance as required for certain jobs.

(D) Providing documentation of identity (''ID'') theft in order to dispute information on one's consumer report can be particularly challenging for those who know their financial abuser.

(E) While it is easier for consumers who obtain a police report to remove fraudulent information from their consumer report and prevent it from reappearing in the future, according to the Empire Justice Center, safety and other non-credit concerns may impact the capacity of a survivor of financial abuse committed by a known person to turn to law enforcement to get a police report.

(F) According to the Legal Aid Society in New York, domestic abuse survivors, seeking to remove adverse information stemming from financial abuse by contacting their furnishers directly, are likely to face skepticism about claims of ID theft perpetrated by a partner because of an assumption that they are aware of, and may have been complicit in, the activity which the survivor alleges stems from financial abuse.

(9) DECEPTIVE AND MISLEADING MARKETING PRACTICES.—

(A) The Consumer Bureau's February 2015 report titled ''Consumer Voices on Credit Reports and Scores'' found that some consumers did not obtain a copy of their consumer report due to concerns about security or of being trapped into purchasing unwanted products like an additional report or a credit monitoring service.

(B) In January 2017, the Consumer Bureau fined TransUnion and Equifax for deceptively marketing credit scores for purchase by consumers as the same credit scores typically used by lenders to determine creditworthiness and for luring consumers into costly subscription services that were advertised as ''free'' or ''$1'' that automatically charged recurring fees unless cancelled by consumers. The Consumer Bureau also found that Equifax was illegally advertising its products on webpages that consumers accessed through AnnualCreditReport.com before consumers obtained their free disclosures. Because of these troubling practices, TransUnion was ordered to pay $13.9 million in restitution to harmed consumers and a civil penalty of $3 million to the Consumer Bureau. Equifax was ordered to pay more than $3.7 million to affected consumers as well as a civil money penalty of $2.5 million to the Consumer Bureau. As part of the consent orders, the CRAs are also supposed to change the way that they sell their products to consumers. The CRAs must also obtain consumers' express consent before enrolling them into subscription services as well as make it easer for consumers to cancel these programs.

(C) The Consumer Bureau fined the other nationwide CRA—Experian—in March 2017 for deceiving consumers about the use of credit scores that it marketed and sold to consumers as credit scores that were used by lenders and for illegally advertising its products on web pages that consumers accessed through AnnualCreditReport.com before they obtained their free annual disclosures. Experian was ordered to pay more than $3.7 million in restitution to harmed consumers and a civil monetary penalty of $2.5 million to the Consumer Bureau.

(D) The Consumer Bureau's January and March 2017 consent orders with the three nationwide CRAs show that these CRAs have enticed consumers into purchasing products and services that they may not want or need, in some instances by advertising products or services ''free'' that automatically converted into an ongoing subscription service at the regular price unless cancelled by the consumer. Although these CRAs must now change their deceptive marketing practices, codifying these duties is an appropriate way to ensure that these companies never revert back to such misleading tactics.

(E) Given the ubiquitous use of consumer reports in consumers' lives and the fact that consumers' participation in the credit reporting system is involuntary, CRAs should also prioritize providing consumers with the effective means to safeguard their personal and financial information and improve their credit standing, rather than seeking to exploit consumers' concerns and confusion about credit reporting and scoring, to boost their companies' profits.

(F) Vulnerable consumers, who have legitimate concerns about the security of their personal and financial information, deserve clear, accurate, and transparent information about the credit reporting tools that may be available to them, such as fraud alerts and freezes.

(10) CLARITY IN CREDIT SCORING.—

(A) The February 2015 report of the Bureau of Consumer Financial Protection titled ''Consumer Voices on Credit Reports and Scores'' found that some consumers are reluctant to comparison shop for loans and other types of consumer credit products out of fear that they will lower their credit scores by doing so.

(B) The Consumer Bureau found that one of the most common barriers for people in reviewing their own credit reports and shopping for the best credit terms was a lack of understanding of the differences between ''soft'' and ''hard'' inquiries and whether requesting a copy of their own report would adversely impact their credit standing.

(C) The Bureau of Consumer Financial Protection revealed that consumers with accurate perceptions of their creditworthiness may be better equipped to shop for favorable credit terms.

(11) CREDIT CHECKS AND EMPLOYMENT DECISIONS.—

(A) The use of consumer reports as a factor in making hiring decisions has been found to be prevalent in a diverse array of occupations, and is not limited to certain high-level management or executive positions.

(B) According to the California Labor Federation, only 25 percent of employers researched the credit history of job applicants in 1998. However, this practice had increased to 43 percent by 2006 and to 60 percent by 2011.

(C) A study titled ''Do Job Applicant Credit Histories Predict Job Performance Appraisal Ratings or Termination Decisions?'', published in 2012, found that, while credit history might conceptually measure a person's level of responsibility, ability to meet deadlines, dependability, or integrity, it does not, in practice, actually predict an employee's performance or likelihood to quit. Credit reports contain many inaccuracies and credit history can be contaminated by events that are sometimes outside a person's control, such as a sudden medical expense after an accident or the loss of a job during an economic downturn. The study found that there is no benefit from using credit history to predict job performance or turnover.

(D) Despite the absence of data showing a correlation between job performance and creditworthiness, employers continue to use credit checks as a proxy for assessing character and integrity. According to a 2012 Society for Human Resource Management survey, organizations indicated that they used credit checks on job candidates primarily to reduce or prevent theft and embezzlement and to minimize legal liability for negligent hiring.

(E) The use of credit checks for employment purposes creates a true ''catch-22'' for unemployed people with impaired credit. For example, the financial hardship caused by losing a job may cause some unemployed individuals to make late or partial payments on their bills, but their poor credit standing caused by this negative information on their consumer report can also impede their chances of obtaining a new job to end their financial distress.

(F) A September 2014 report by the New York City Council's Committee on Civil Rights noted that, for those who have been unemployed for an extended period of time and whose credit has suffered as they fell behind on bills, the use of credit reports in the hiring process can exacerbate and perpetuate an already precarious situation.

(G) In a March 2013 Demos report titled ''Discredited: How Employment Credit Checks Keep Out Qualified Workers Out of a Job'', one in four survey participants who were unemployed said that a potential employer had requested to check their credit report as part of a job application. Among job applicants with blemished credit histories in the survey, one in seven had been told that they were not being hired because of their credit history.

(H) While job applicants must give prior approval for a prospective employer to pull their credit reports under the FCRA, this authorization, as a practical matter, does not constitute an effective consumer protection because an employer may reject any job applicant who refuses a credit check.

(I) Some negative information on a report may stem from uncontrollable circumstances, or significant life events in a consumer's life, such as a medical crisis or a divorce. Demos found that poor credit is associated with household unemployment, lack of health coverage, and medical debt, which are factors that reflect economic conditions in the country and personal misfortune that have little relationship with how well a job applicant would perform at work.

(J) In October 2011, FICO noted that from 2008 to 2009 approximately 50 million people experienced a 20-point drop in their credit scores and about 21 million saw their scores decline by more than 50 points. While the Great Recession reduced many consumers' credit scores due to foreclosures and other financial hardships, the financial crisis had a particularly harsh impact on African Americans and Latinos, as racial and ethnic minorities and communities of color were frequently targeted by predatory mortgage lenders who steered borrowers into high-cost subprime loans, even when these borrowers would have qualified for less costly prime credit.

(K) A May 2006 Brookings Institution report titled ''Credit Scores, Reports, and Getting Ahead in America'' found that counties with a relatively higher proportion of racial and ethnic minorities in the United States tended to have lower credit scores compared with counties that had a lower concentration of communities of color.

(L) Studies have consistently found that African American and Latino households tend, on average, to have lower credit scores than White households. The growing use of credit checks, therefore, may disproportionately screen otherwise qualified racial and ethnic minorities out of jobs, leading to discriminatory hiring practices, and further exacerbating the trend where unemployment for African American and Latino communities is elevated well above the rate of Whites.

(M) A 2012 Demos survey found that 65 percent of White respondents reported having good or excellent credit scores while over half of African American households reported only having fair or bad credit.

(12) DECEPTIVE AND MISLEADING MARKETING PRACTICES.—

(A) The Consumer Bureau's February 2015 report titled ''Consumer Voices on Credit Reports and Scores'' found that some consumers did not obtain a copy of their consumer report due to concerns about security or of being trapped into purchasing unwanted products like an additional report or a credit monitoring service.

(B) In January 2017, the Consumer Bureau fined TransUnion and Equifax for deceptively marketing credit scores for purchase by consumers as the same credit scores typically used by lenders to determine creditworthiness and for luring consumers into costly subscription services that were advertised as ''free'' or ''$1'' that automatically charged recurring fees unless cancelled by consumers. The Consumer Bureau also found that Equifax was illegally advertising its products on webpages that consumers accessed through AnnualCreditReport.com before consumers obtained their free disclosures. Because of these troubling practices, TransUnion was ordered to pay $13.9 million in restitution to harmed consumers and a civil penalty of $3 million to the Consumer Bureau. Equifax was ordered to pay more than $3.7 million to affected consumers as well as a civil money penalty of $2.5 million to the Consumer Bureau. As part of the consent orders, the CRAs are also supposed to change the way that they sell their products to consumers. The CRAs must also obtain consumers' express consent before enrolling them into subscription services as well as make it easer for consumers to cancel these programs.

(C) The Consumer Bureau fined the other nationwide CRA—Experian—in March 2017 for deceiving consumers about the use of credit scores that it marketed and sold to consumers as credit scores that were used by lenders and for illegally advertising its products on web pages that consumers accessed through AnnualCreditReport.com before they obtained their free annual disclosures. Experian was ordered to pay more than $3.7 million in restitution to harmed consumers and a civil monetary penalty of $2.5 million to the Consumer Bureau.

(D) The Consumer Bureau's January and March 2017 consent orders with the three nationwide CRAs show that these CRAs have enticed consumers into purchasing products and services that they may not want or need, in some instances by advertising products or services ''free'' that automatically converted into an ongoing subscription service at the regular price unless cancelled by the consumer. Although these CRAs must now change their deceptive marketing practices, codifying these duties is an appropriate way to ensure that these companies never revert back to such misleading tactics.

(E) Given the ubiquitous use of consumer reports in consumers' lives and the fact that consumers' participation in the credit reporting system is involuntary, CRAs should also prioritize providing consumers with the effective means to safeguard their personal and financial information and improve their credit standing, rather than seeking to exploit consumers' concerns and confusion about credit reporting and scoring, to boost their companies' profits.

(F) Vulnerable consumers, who have legitimate concerns about the security of their personal and financial information, deserve clear, accurate, and transparent information about the credit reporting tools that may be available to them, such as fraud alerts and freezes.

(13) PROTECTIONS FOR CONSUMERS' CREDIT INFORMATION.—

(A) Despite heightened awareness, incidents of ID theft continue to rise. In February 2015, the Federal Government reported that ID theft was the top consumer complaint that it received for the 15th consecutive year. As these incidents increase, consumers experience significant financial loss and emotional distress from the inability to safeguard effectively and inexpensively their credit information from bad actors.

(B) According to a Carnegie Mellon study, children are 50 times more likely than adults to have their identities stolen. Child identities are valuable to thieves because most children do not have existing files, and their parents may not notice fraudulent activity until their child applies for a student loan, a job, or a credit card. As a result, the fraudulent activity of the bad actors may go undetected for years.

(C) Despite the increasing incidents of children's ID theft, parents who want to proactively prevent their children from having their identity stolen, may not be able to do so. Only one of the three nationwide CRAs currently allows parents from any State to set up a freeze for a minor child. At the other two nationwide CRAs, parents can only obtain a freeze after a child has become an ID theft victim because, it is only at this point, that these CRAs have an existing

credit file for the child. While many States have enacted laws to address this problem, there is no existing Federal law.

(D) According to Javelin Strategy & Research's 2015 Identity Fraud study, $16 billion was stolen by fraudsters from 12.7 million American consumers in 2014. Similarly, the United States Department of Justice found an estimated 7 percent of all residents age 16 or older (about 17.6 million persons) in this country were victims of one or more incidents of ID theft in 2014, and the number of elderly victims age 65 or older (about 86 percent) increased from 2.1 million in 2012 to 2.6 million in 2014.

(E) Consumers frequently express concern about the security of their financial information. According to a 2015 MasterCard survey, a majority of consumers (77 percent) have anxiety about the possibility that their financial information and Social Security numbers may be stolen or compromised, with about 55 percent of consumers indicating that they would rather have naked pictures of themselves leaked online than have their financial information stolen.

(F) That survey also revealed that consumers' fears about the online security of their financial information even outweighed consumers' worries about other physical security dangers such as having their houses robbed (59 percent) or being pickpocketed (46 percent).

(G) According to Consumer Reports, roughly 50 million American consumers spent about $3.5 billion in 2010 to purchase products aimed at protecting their identity, with the annual cost of these services ranging from $120 to $300. As risks to consumers' personal and financial information continue to grow, consumers need additional protections to ensure that they have fair and reasonable access to the full suite of ID theft and fraud prevention measures that may be right for them.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specified, the amendments made by this Act shall take effect 2 years after the date of the enactment of this Act.

SEC. 5. DISCRETIONARY SURPLUS FUND.

(a) IN GENERAL.—The dollar amount specified under section 7(a)(3)(A) of the Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is reduced by $26,000,000.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 2029.

TITLE I—IMPROVEMENTS TO THE DISPUTE PROCESS

SEC. 101. DISPUTE PROCEDURES AND DISCLOSURES RELATING TO REINVESTIGATIONS.

(a) IN GENERAL.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended to read as follows:

''(a) REINVESTIGATIONS OF DISPUTED INFORMATION BY A CONSUMER REPORTING AGENCY.—

''(1) REINVESTIGATIONS REQUIRED.—

''(A) IN GENERAL.—Subject to subsection (f), if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency (either directly or indirectly through a reseller or an authorized third party) of such dispute, the agency shall, free of charge—

''(i) conduct a reasonable reinvestigation using the process described in paragraph (3) to determine whether the disputed information is inaccurate, incomplete, or cannot be verified;

''(ii) notify the consumer that a notation described in section 605(e) will be added to the consumer's file until the reinvestigation has been completed and that such notation can be removed at the request of the consumer; and

''(iii) before the end of the 30-day period beginning on the date on which the consumer reporting agency receives the notice of the dispute from the consumer or the reseller—

''(I) record the current status of the disputed information; or

''(II) delete or modify the item in accordance with paragraph (3)(D).

''(B) EXTENSION OF PERIOD TO REINVESTIGATE.—Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for period not to exceed 15 days if the consumer reporting agency receives additional information from the consumer or the reseller regarding the dispute after the date on which the consumer reporting agency notified any person who provided any item of information in dispute under paragraph (2)(A).

''(C) LIMITATIONS ON EXTENSION OF PERIOD TO REINVESTIGATE.—Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the disputed information is found to be inaccurate or incomplete, or the consumer reporting agency determines that the disputed information cannot be verified.

''(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION; PROVISION OF INFORMATION REGARDING DISPUTE PROVIDED BY THE CONSUMER OR RESELLER.—

''(A) IN GENERAL.—Before the end of the period of 5 business days beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer or reseller under paragraph (1)(A), the consumer reporting agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with such person. The notice shall include all information, including substantiating documents, regarding the dispute that was submitted to the consumer reporting agency.

''(B) PROVISION OF ADDITIONAL INFORMATION REGARDING DISPUTE AFTER NOTIFICATION TO THE FURNISHER OF INFORMATION.—If a consumer reporting agency receives additional information regarding the dispute from the consumer or reseller after the agency provides the notification described under subparagraph (A) and before the end of the 30-day period described in paragraph (1)(A), the consumer reporting agency shall, not later than 3 business days after receiving such information, provide such information to the person who provided the information in dispute.

''(3) REASONABLE STANDARDS FOR CONSUMER REPORTING AGENCIES FOR CONDUCTING REINVESTIGATIONS AND RESOLVING DISPUTES SUBMITTED BY CONSUMERS.—

''(A) IN GENERAL.—In conducting a reinvestigation of disputed information, a consumer reporting agency shall, at a minimum—

''(i) maintain sufficient resources and trained staff, commensurate with the volume and complexity of disputes received or reasonably anticipated to be received, to determine whether the disputed information is accurate, complete, or can be verified by the person who provided the information;

''(ii) ensure that all staff involved at any level of the reinvestigation process, including any individual with ultimate authority over determining whether the disputed information is inaccurate, incomplete, or cannot be verified, are located within the United States;

''(iii) verify that the personally identifiable information of the consumer submitting the dispute matches the personally identifiable information contained in the consumer's file, and that such information is accurate and complete;

''(iv) verify that the consumer reporting agency has a record of the information being disputed; and

''(v) conduct a reasonable review that considers all information, including substantiating documents, provided by the consumer or reseller.

''(B) CONSUMER REPORTING.—The consumer reporting agency shall not impose any limitation or otherwise impede the ability of a consumer to submit information about the disputed item.

''(C) INDEPENDENT ANALYSIS.—The reinvestigation conducted under subparagraph (A) shall be an independent analysis, separate from any investigation by a reseller or a person who provided the disputed information.

''(D) DELETION OR MODIFICATION OF INFORMATION CONTAINED IN A CONSUMER FILE.—If the disputed information is found to be inaccurate, incomplete, or cannot be verified, the dispute resolution staff of the consumer reporting agency shall have the direct authority to delete or modify such information in the consumer's file, as appropriate, during the 30-day period described in paragraph (1)(A), shall promptly notify the consumer of the results of the reinvestigation as described in paragraph (4), and shall promptly notify any person who provided such information to the consumer reporting agency of the modification or deletion made to the consumer's file.

''(4) NOTICE TO CONSUMER OF RESULTS OF REINVESTIGATION.—

''(A) IN GENERAL.—Not later than 5 business days after the conclusion of a reinvestigation conducted under this subsection, the consumer reporting agency shall provide written notice to the consumer of the results of the reinvestigation by postal mail or, if authorized by the consumer for that purpose, by other means available to the agency.

''(B) CONTENTS OF NOTICE TO CONSUMER OF RESULTS OF REINVESTIGATION.—The notice described in subparagraph (A) shall include—

''(i) a statement that the reinvestigation of the disputed information has been completed;

''(ii) a statement informing the consumer as to whether the disputed information was determined to be inaccurate, incomplete, or unverifiable, including a statement of the specific reasons supporting the determination;

''(iii) if information in the consumer's file has been deleted or modified as a result of the reinvestigation—

''(I) a copy of the consumer report and credit score or educational score (if applicable) that is based upon the consumer's revised file;

''(II) a statement identifying the specific information from the consumer's file that was deleted or modified because such information was determined to be inaccurate, incomplete, or unverifiable by the consumer reporting agency;

''(III) a statement that the consumer has the right, free of charge, to obtain an additional consumer report and credit score or educational credit score (if applicable) within the 12-month period following the date of the conclusion of the reinvestigation, regardless of whether the consumer obtained or will obtain a free annual consumer report and credit score or educational score (if applicable) under section 612; and

''(IV) a statement that the consumer has the right, free of charge, to request under subsection (d) that the consumer reporting agency furnish notifications of the consumer's revised report;

''(iv) a description of the procedure used by the dispute resolution staff of the consumer reporting agency to determine the accuracy or completeness of the information, including the business name, mailing address, telephone number, and Internet website address (if available) of any person who provided information who was contacted by the staff in connection with the determination;

''(v) a statement that the consumer has the right, free of charge, to add a narrative statement to the consumer's file disputing the accuracy or completeness of the information, regardless of the results of the reinvestigation by the agency, and the process for submitting such a narrative pursuant to subsection (b);

''(vi) a copy of all information relating to the consumer that was used by the consumer reporting agency in carrying out the reinvestigation and relied upon as the basis for the determination about the accuracy and completeness of the disputed information;

''(vii) a statement that a consumer may, free of charge, challenge the results of the reinvestigation by appeal within 120 days after the date the notice of the results of the reinvestigation was provided to the consumer and the process for submitting an appeal;

''(viii) a statement informing the consumer that a notation described in section 605(e) will be added to the file of the consumer during the period in which the consumer appeals the results of a reinvestigation and that such notation can be removed at the request of the consumer; and

''(ix) any other information, as determined by the Bureau.

''(5) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED OR MODIFIED MATERIAL.—

''(A) CERTIFICATION OF NEW DETERMINATION THAT ITEM IS ACCURATE OR COMPLETE.—A consumer reporting agency may not reinsert into a consumer's file any information that was previously deleted or modified pursuant to paragraph (3)(D), unless the person who provided the information—

''(i) requests that the consumer reporting agency reinsert such information;

''(ii) submits a written certification that the information is accurate and complete; and

''(iii) provides a statement describing the specific reasons why the information should be inserted.

''(B) NOTICE TO CONSUMER BEFORE REINSERTION CAN OCCUR.—Upon receipt of a request for reinsertion of disputed information under subparagraph (A), the consumer reporting agency shall, not later than 5 business days before the consumer reporting agency reinserts the information into the consumer's file, notify the consumer in writing of such request for reinsertion. Such notice shall include—

''(i) the business name, mailing address, telephone number, and Internet website address (if available) of any person who provided information to or contacted the consumer reporting agency in connection with the reinsertion;

''(ii) a copy of the information relating to the consumer, the certification that the information is accurate or complete, and the statement of the reasons supporting reinsertion provided by the person who provided the information to the consumer reporting agency under subparagraph (A);

''(iii) a statement that the consumer may obtain, free of charge and within the 12-month period following the date the notice under this subparagraph was issued, a consumer report and credit score or educational score (if applicable) from the consumer reporting agency that includes the reinserted information, regardless of whether the consumer obtained or will obtain a free annual consumer report and credit score or educational credit score (if applicable) under section 612;

''(iv) a statement that the consumer may appeal the determination that the previously deleted or modified information is accurate or complete and a description of the procedure for the consumer to make such an appeal pursuant to subsection (i); and

''(v) a statement that the consumer has the right to add a narrative statement, free of charge, to the consumer's file disputing the accuracy or completeness of the disputed information and a description of the process to add such a narrative statement pursuant to subsection (b).

''(6) EXPEDITED DISPUTE RESOLUTION.—If a consumer reporting agency determines that the information provided by the consumer is sufficient to substantiate that the item of information is inaccurate, incomplete, or cannot be verified by the person who furnished such information, and the consumer reporting agency deletes or modifies such information within 3 business days of receiving notice of the dispute, the consumer reporting agency shall be exempt from the requirements of paragraph (4), if the consumer reporting agency provides to the consumer—

''(A) prompt notice confirming the deletion or modification of the information from the consumer's file in writing or by other means, if agreed to by the consumer when the information is disputed;

''(B) a statement of the consumer's right to request that the consumer reporting agency furnish notifications of a revised consumer report pursuant to subsection (d);

''(C) not later than 5 business days after deleting or modifying the information, a copy of the consumer report and credit score or educational score (if applicable) that is based upon the consumer's revised file; and

''(D) a statement that the consumer may obtain, free of charge and within the 12-month period following the date the notice under this paragraph was sent to the consumer, a consumer report and credit score or educational score (if applicable) from the consumer reporting agency, regardless of whether the consumer obtained or will obtain their free annual consumer report and credit score or educational score (if applicable) under section 612.

''(7) NO EXCUSE FOR FAILURE TO CONDUCT REINVESTIGATION.—A consumer reporting agency may not refuse to conduct a reinvestigation under this subsection because the agency determines that the dispute was submitted by an authorized third party, unless the agency has clear and convincing evidence that the third party is not authorized to submit the dispute on the consumer's behalf. If the consumer reporting agency refuses to reinvestigate a dispute for these reasons, it shall provide a clear and conspicuous notice to the consumer explaining the reasons for the refusal and describing the specific information the consumer is required to provide for the agency to conduct the reinvestigation.''.

(b) ENSURING CONSUMER REPORTING AGENCIES FURNISH CERTAIN NOTIFICATIONS WITHOUT CHARGE.—Section 611(d) of the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is amended by inserting ''and without charge'' after ''request of the consumer''.

(c) INCLUDING SPECIALTY CONSUMER REPORTING AGENCIES IN REPORTS.—

(1) IN GENERAL.—Section 611(e) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)) is amended by inserting ''or 603(x)'' after ''section 603(p)''.

(2) TECHNICAL AMENDMENT.—Section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) is amended by striking ''The Commission'' and inserting ''The Bureau''.

(d) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is further amended—

(1) in section 605B(c)(2), by striking ''section 611(a)(5)(B)'' and inserting ''section 611(a)(5)'';

(2) in section 611—

(A) in subsection (c), by striking ''unless there is reasonable grounds to believe that it is frivolous or irrevelant,''; and

(B) in subsection (f)(3)—

(i) in subparagraph (A), by striking ''paragraph (6), (7), or (8) of subsection (a)'' and inserting ''paragraph (4) or (5) of subsection (a)''; and

(ii) in subparagraph (B), by striking ''in the manner required under paragraph (8)(A)''; and

(3) in section 623(b)(1)(B), by striking ''relevant'' before ''information''.

(e) GLOBAL TECHNICAL CORRECTIONS TO REFERENCES TO NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is further amended—

(1) by striking ''section 603(w)'' and inserting ''section 603(x)'' each place such term appears; and

(2) in section 612(a)(1)(A), by striking ''(w)'' and inserting ''(x)''.

SEC. 102. CONSUMER AWARENESS OF DISPUTE RIGHTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following new subsection:

''(h) INCREASED CONSUMER AWARENESS OF DISPUTE RIGHTS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, each consumer reporting agency described under subsection (p) or (x) of section 603 shall—

''(A) establish an Internet website accessible to consumers; and

''(B) post on the home page of such website a hyperlink to a separate webpage established and maintained solely for the purpose of providing information to a consumer about how to dispute an item of information in the consumer report of the consumer.

''(2) DISPUTE WEBPAGE REQUIREMENTS.—For a consumer reporting agency described under subsection (p) or (x) of section 603, the separate dispute webpage described in paragraph (1)(B)—

''(A) may not include any type or form of marketing, advertising, information, or material associated with any products or services offered or sold to consumers;

''(B) shall clearly and conspicuously disclose a concise statement regarding how to file a dispute through the agency, free of charge, in the manner and format prescribed by the Bureau;

''(C) shall describe the types of documents that will be used by the agency in resolving the dispute, including the business name and mailing address to which a consumer may send such documents;

''(D) shall include a clear and concise explanation of and the process for using electronic or other means to submit such documents, free of charge, and without any character or data limitation imposed by the agency;

''(E) shall include a statement that the consumer may submit information, free of charge, that the consumer believes will assist the consumer reporting agency in determining the results of the reinvestigation of the dispute;

''(F) shall clearly and conspicuously disclose a statement describing the procedure likely to be used by the consumer reporting agency in carrying out a reinvestigation to determine the accuracy or completeness of the disputed item of information, including the time period in which the consumer will be notified of the results of the reinvestigation, and a statement that the agency may extend the reinvestigation period by an additional 15 days if the consumer submits additional information after a certain date; and

''(G) shall provide translations of all information on the webpage in each of the 10 most commonly spoken languages, other than English, in the United States, as determined by the Bureau of the Census on an ongoing basis, and in formats accessible to individuals with hearing or vision impairments.''.

SEC. 103. MAINTENANCE OF RECORDS BY FURNISHERS.

Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by adding at the end the following new subsection:

''(f) DUTY OF FURNISHERS TO MAINTAIN RECORDS OF CONSUMERS.—

''(1) IN GENERAL.—A person who furnishes information to a consumer reporting agency relating to a consumer who has an account with that person shall maintain all information necessary to substantiate the accuracy and completeness of the information furnished, including any records establishing the liability and terms and conditions under which credit was extended to a consumer and any payment history with respect to such credit.

''(2) RETENTION PERIOD.—Records described under paragraph (1) shall be maintained until the information with respect to which the records relate may no longer be included in a consumer report pursuant to section 605.

''(3) TRANSFER OF OWNERSHIP.—If a person providing information to a consumer reporting agency is acquired by another person, or if another person acquires the right to repayment connected to such information, the acquiring person shall be subject to the requirements of this subsection with respect to such information to the same extent as the person who initially provided such information to the consumer reporting agency. The person selling or transferring the right to repayment shall provide the information described in paragraph (1) to the transferee or the acquirer.''.

SEC. 104. DUTIES OF FURNISHERS RELATING TO DISPUTE PROCEDURES, NOTICES, AND DISCLOSURES.

(a) DUTY TO PROVIDE ACCURATE AND COMPLETE INFORMATION.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended—

(1) in the subsection heading, by inserting ''AND COMPLETE'' after ''ACCURATE'';

(2) in paragraph (1)—

(A) by inserting ''or incomplete'' after ''inaccurate'' each place that term appears; and

(B) in subparagraph (D), by inserting ''or completeness'' after ''accuracy''; and

(3) in paragraph (8)—

(A) in subparagraph (A), by inserting ''and completeness'' after ''accuracy''; and

(B) in subparagraph (D), by inserting ''or completeness'' after ''accuracy''.

(b) NEGATIVE INFORMATION NOTICES TO CONSUMERS.—Section 623(a)(7) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(7)) is amended to read as follows:

''(7) DUTY OF FURNISHERS TO INFORM CONSUMERS ABOUT REPORTING NEGATIVE INFORMATION.—

''(A) GENERAL NEGATIVE INFORMATION WARNING NOTICE TO ALL CONSUMERS PRIOR TO FURNISHING SUCH INFORMATION.—

''(i) IN GENERAL.—Any person that regularly furnishes negative information to a consumer reporting agency described in subsection (p) or (x) of section 603 about activity on any accounts of a consumer held by such person or transactions associated with credit extended to a consumer by such person shall provide a written general negative information warning notice to each such consumer before such person may furnish any negative information relating to such a consumer.

''(ii) CONTENT.—Such notice shall—

''(I) be clear and conspicuous;

''(II) describe the types of activities that constitute negative information;

''(III) inform the consumer that the person may report negative information relating to any such accounts or transactions to a consumer reporting agency described in subsection (p) or (x) of section 603;

''(IV) state that the negative information may appear on a consumer report of the consumer for the periods described in section 605 and that during such periods, the negative information may adversely impact the consumer's credit score;

''(V) state that in some limited circumstances, the negative information may result in other adverse actions, including a denial of a new job or a promotion from existing employment; and

''(VI) state that the consumer has right to—

''(aa) obtain a copy of their consumer report and credit score or educational score (if applicable), which in some instances can be obtained free of charge, from any consumer reporting agency to which negative information may be been sent; and

''(bb) dispute, free of charge, any errors on a consumer report relating to the consumer.

''(iii) TIMING OF NOTICE.—Such person shall provide such notice to a consumer not later than 90 days before the date on which the person furnishes negative information relating to such consumer.

''(B) SPECIFIC NEGATIVE INFORMATION NOTICE TO A CONSUMER.—

''(i) IN GENERAL.—Any person described in subparagraph (A) that has furnished negative information relating to activity on any accounts of a consumer held by such person or transactions associated with credit extended to a consumer by such person to a consumer reporting agency described in subsection (p) or (x) of section 603 shall send a written notice to each such consumer.

''(ii) CONTENT.—Such notice shall—

''(I) be clear and conspicuous;

''(II) inform the consumer that the person has furnished negative information relating to such accounts or transactions to a consumer reporting agency described in subsection (p) or (x) of section 603;

''(III) identify any consumer reporting agency to which the negative information was furnished, including the name of the agency, mailing address, Internet website address, and toll-free telephone number; and

''(IV) include the statements described in subclauses (IV), (V), and (VI) of subparagraph (A)(ii).

''(iii) TIME OF NOTICE.—Such person shall provide such notice to a consumer not later than 5 business days after the date on which the person furnished negative information relating to such consumer.

''(C) NOTICE EFFECTIVE FOR SUBSEQUENT SUBMISSIONS.—After providing the notice described in subparagraph (B), the person may submit additional negative information to a consumer reporting agency described in subsection (p) or (x) of section 603 without providing additional notice to the consumer, unless another person acquires the right to repayment connected to the additional negative information. The acquiring person shall be subject to the requirements of this paragraph and shall be required to send consumers the written notices described in this paragraph, if applicable.

''(D) NON-TRADITIONAL DATA FURNISHERS.—Any person that furnishes negative information to a consumer reporting agency described in subsection (p) or (x) of section 603 relating to any accounts of, or transactions associated with, a consumer by such person involving non-traditional data shall be subject to the requirements described in subparagraphs (A), (B), and (C).

''(E) MODEL NOTICES.—

''(i) DUTY OF BUREAU.—Not later than 6 months after date of the enactment of this paragraph, the Bureau shall issue model forms for the notices described in subparagraphs (A) and (B) that a person may use to comply with the requirements of this paragraph.

''(ii) USE OF MODEL NOTICE NOT REQUIRED.—No provision of this paragraph may be construed to require a person to use the model notices prescribed by the Bureau.

''(iii) COMPLIANCE USING MODEL NOTICES.—A person shall be deemed to be in compliance with the requirements of subparagraph (A)(ii) or (B)(ii) (as applicable) if the person uses the model notice prescribed by the Bureau.

''(F) ISSUANCE OF GENERAL NEGATIVE WARNING NOTICE WITHOUT SUBMITTING NEGATIVE INFORMATION.—No provision of this paragraph may be construed to require a person described in subparagraph (A) or (D) to furnish negative information about a consumer to a consumer reporting agency described in subsection (p) or (x) of section 603.

''(G) SAFE HARBOR.—A person shall not be liable for failure to perform the duties required by this paragraph if the person reasonably believes that the person is prohibited, by law, from contacting the consumer.

''(H) EFFECTIVE DATE.—The requirements of subparagraphs (A), (B), (C), and (D) shall not take effect until the date that is 6 months after the date of the issuance of model forms for notices under subparagraph (E).

''(I) DEFINITIONS.—In this paragraph, the following definitions shall apply:

''(i) NEGATIVE INFORMATION.—The term 'negative information' means information concerning a consumer's delinquencies, late payments, insolvency, or any form of default.

''(ii) NON-TRADITIONAL DATA.—The term 'non-traditional data' relates to telecommunications payments, utility payments, rent payments, remittances, wire transfers, and such other items as determined by the Bureau.''.

(c) DUTIES OF FURNISHERS AFTER RECEIVING NOTICE OF DISPUTE FROM A CONSUMER.—Section 623(a)(8)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(8)(E)) is amended to read as follows:

''(E) DUTIES OF FURNISHERS AFTER RECEIVING NOTICE OF DISPUTE FROM A CONSUMER.—After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall—

''(i) promptly provide to each consumer reporting agency to which the person furnished the disputed information the notice of dispute;

''(ii) review all information, including any substantiating documents, provided by the consumer about the disputed information and conduct an investigation, separate from any reinvestigation by a consumer reporting agency or a reseller conducted with respect to the disputed information;

''(iii) before the expiration of the period under section 611(a)(1) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section, complete an investigation of the disputed information pursuant to the standards described in subparagraph (G);

''(iv) notify the consumer, in writing, of the receipt of the dispute that includes—

''(I) a statement about any information additional to the information that the person is required to maintain under subsection (f) that would support the person's ability to carry out an investigation to resolve the consumer's dispute; and

''(II) a statement that the consumer reporting agency to which the disputed information was provided will include a notation described in section 605(e) in the consumer's file until the investigation has been completed, and information about how a consumer may request that such notation is removed by the agency;

''(v) if the investigation determines the disputed information is inaccurate, incomplete, or unverifiable, promptly notify each consumer reporting agency to which the person furnished such information in accordance with paragraph (2); and

''(vi) notify the consumer of the results of the investigation, in writing, in accordance with subparagraph (H).''.

(d) ELIMINATING FURNISHERS' AUTHORITY TO DISMISS DISPUTES AS FRIVOLOUS OR IRRELEVANT.—Section 623(a)(8) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(8)) is amended by striking subparagraph (F) and redesignating subparagraph (G) as subparagraph (F).

(e) ADDITIONAL DUTIES.—Section 623(a)(8) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(8)), as amended by subsection (d), is further amended by adding at the end the following new subparagraphs:

''(G) REASONABLE STANDARDS FOR FURNISHERS FOR CONDUCTING INVESTIGATIONS AND RESOLVING DISPUTES SUBMITTED BY CONSUMERS.—In any investigation conducted by a person who furnishes information to a consumer reporting agency of an item of information being disputed by a consumer, the person, at a minimum—

''(i) shall maintain sufficient resources and trained staff, commensurate with the volume and complexity of disputes received or reasonably anticipated to be received, to conduct investigations;

''(ii) shall verify that the person has a record of the particular information being disputed, consistent with the requirements of subsection (f);

''(iii) shall verify that the personally identifiable information of the consumer submitting the dispute matches the personally identifiable information contained on such records;

''(iv) shall conduct a reasonable review to determine whether the disputed information is accurate, complete, and can be verified that considers all the information, including any substantiating documents, provided by the consumer about the disputed information;

''(v) shall ensure that the investigation is an independent analysis that is separate from any reinvestigation by a consumer reporting agency

or a reseller conducted with respect to the disputed information; and

''(vi) may not impose any limitations or otherwise impede the ability of a consumer to submit information, including any substantiating documents, about the disputed information.

''(H) CONTENTS OF THE NOTICE TO THE CONSUMER ABOUT THE RESULTS OF THE INVESTIGATION BY THE FURNISHER.—The notice of the results of the investigation described in subparagraph (E) shall include—

''(i) a statement informing the consumer as to whether the disputed information was determined to be inaccurate, incomplete, or unverifiable;

''(ii) a statement of the specific reasons supporting the results of the investigation;

''(iii) a description of the procedure used by the dispute resolution staff of the person who furnishes information to a consumer reporting agency to determine the accuracy or completeness of the information, including the business name, mailing address, telephone number, and Internet website address (if available) of any person who was contacted by the staff in connection with the determination;

''(iv) a copy of all information relating to the consumer that was used in carrying out the investigation and was the basis for any determination about the accuracy or completeness of the disputed information;

''(v) a statement that consumer will receive, free of charge, a copy of their consumer report and credit score or educational credit score (if applicable), from any consumer reporting agency to which the disputed information had been provided, regardless of whether the consumer obtained or will obtain a free consumer report and credit score or educational credit score (if applicable) in the 12-month period preceding receipt of the notice described in this subparagraph pursuant to section 612(a)(1);

''(vi) if the disputed information was found to be inaccurate, incomplete, or unverifiable, a statement that the consumer report of the consumer shall be revised to reflect the change to the consumer's file as a result of the investigation;

''(vii) a statement that the consumer has the right to appeal the results of the investigation under paragraph (10), free of charge, within 120 days after the date of the notice of the results of the investigation was provided to the consumer and the process for submitting an appeal;

''(viii) a statement that the consumer may add a narrative statement, free of charge, to the consumer's file held by the consumer reporting agency to which the information has been furnished disputing the accuracy or completeness of the information, regardless of the results of the investigation by the person, and the process for contacting any agency that received the consumer's information from the person to submit a narrative statement;

''(ix) a statement informing the consumer that a notation described in section 605(e) will be added to the consumer's file during the period in which the consumer appeals the results of an investigation and that such notation can be removed at the request of the consumer; and

''(x) a statement that the consumer has the right to request a copy of their consumer report and credit score or educational credit score (if applicable), free of charge, within the 12-month period following the date of the conclusion of the investigation from any consumer reporting agency in which the disputed information had been provided, regardless of whether the consumer obtained or will obtain a free annual consumer report and credit score or educational credit score (if applicable) under this subparagraph or section 612(a)(1).''.

(f) CONFORMING AMENDMENT.—Section 615(a)(4)(B) is amended—

(1) by striking '', under section 611, with a consumer reporting agency''; and

(2) by striking ''furnished by the agency'' and inserting ''to a consumer reporting agency under section 611 or to a person who furnished information to an agency under section 623''.

SEC. 105. RIGHT TO APPEAL DISPUTES RELATING TO REINVESTIGATIONS AND INVESTIGATIONS.

(a) APPEALS OF REINVESTIGATIONS CONDUCTED BY A CONSUMER REPORTING AGENCY.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended—

(1) in subsection (b), by inserting ''or if the consumer is unsatisfied with the results of an appeal conducted under subsection (i),'' after ''resolve the dispute,''; and

(2) by inserting after subsection (h) (as added by section 102) the following new subsection:

''(i) CONSUMER RIGHT TO APPEAL RESULTS OF A CONSUMER REPORTING AGENCY REINVESTIGATION.—

''(1) IN GENERAL.—Within 120 days after the date of receipt of the results of a reinvestigation conducted under subsection (a), a consumer (or authorized third party) may, free of charge, appeal the results of such reinvestigation by submitting a notice of appeal to the consumer reporting agency.

''(2) NOTICE OF APPEAL.—

''(A) REQUIREMENTS.—A notice of appeal described in paragraph (1) may be submitted in writing, or through a toll-free telephone number or other electronic means established by the consumer reporting agency (including on the Internet website described in subsection (h)), and—

''(i) shall identify the information contained in the consumer's file that is the subject of the appeal;

''(ii) shall describe the specific reasons for submitting the notice of appeal; and

''(iii) may provide any information the consumer believes is relevant to substantiate the validity of the dispute.

''(B) CONSUMER REPORTING AGENCY NOTICE TO CONSUMER.—Upon receipt of such notice of appeal, the consumer reporting agency shall promptly provide to the consumer a statement confirming the receipt of the consumer's notice of appeal that shall include—

''(i) an approximate date on which the consumer's appeal review will be completed;

''(ii) the process and procedures by which such review will be conducted; and

''(iii) an employee reference number or other employee identifier for each of the specific individuals designated by the consumer reporting agency who, upon the request of the consumer, may discuss the substance and status of the appeal.

''(3) CONSUMER REPORTING AGENCY REQUIREMENTS UPON RECEIPT OF NOTICE OF APPEAL.—

''(A) IN GENERAL.—Not later than 20 days after receiving a notice of appeal, the consumer reporting agency shall review the appeal. If the consumer reporting agency determines the information is inaccurate, incomplete, or cannot be verified, the consumer reporting agency shall delete or modify the item of information being disputed by the consumer from the file of the consumer before the end of the 20-day period beginning on the date on which the consumer reporting agency receives a notice of an appeal from the consumer.

''(B) NOTICE OF APPEAL TO FURNISHER; INFORMATION REGARDING DISPUTE PROVIDED BY THE CONSUMER.—

''(i) IN GENERAL.—Before the end of the period of 3 business days beginning on the date on which a consumer reporting agency receives a notice of appeal, the consumer reporting agency shall provide notice of the appeal, including all information relating to the specific appeal that the consumer reporting agency has received from the consumer, to any person who provided any information in dispute.

''(ii) PROVISION OF ADDITIONAL INFORMATION REGARDING THE DISPUTE.—If the consumer reporting agency receives additional information from the consumer after the agency provides the notice required under clause (i) and before the end of the 20-day period described in subparagraph (A), the consumer reporting agency shall, not later than 3 business days after receiving such information, provide such information to any person who provided the information in dispute and shall have an additional 10 business days to complete the appeal review.

''(C) MINIMUM STANDARDS FOR APPEALS EMPLOYEES.—

''(i) DESIGNATION.—Upon receipt of a notice of appeal under paragraph (1), a consumer reporting agency shall designate one or more specific employees who—

''(I) shall be assigned an employee reference number or other employee identifier that can be used by the consumer to discuss the appeal with the specific individuals handling the appeal;

''(II) shall have direct authority to resolve the dispute that is the subject of the notice of appeal from the review stage to its completion;

''(III) shall meet minimum training and ongoing certification requirements at regular intervals, as established by the Bureau;

''(IV) shall be located within the United States;

''(V) may not have been involved in the reinvestigation conducted or terminated pursuant to subsection (a); and

''(VI) may not be subject to any requirements linking incentives, including promotion, to the number of appeals processed within a certain time period.

''(ii) REQUIREMENTS.—Such employees shall conduct a robust review of the appeal and make a determination regarding the accuracy and completeness of the disputed information by—

''(I) conducting an independent analysis, separate from any investigation by a reseller or person who provided the disputed information, and separate from any prior reinvestigation conducted by the consumer reporting agency of the disputed information;

''(II) verifying that the personally identifiable information of the consumer submitting the dispute matches the personally identifiable information contained on the consumer's file;

''(III) analyzing the notice of appeal and all information, including any substantiating documents, provided by the consumer with the notice of appeal;

''(IV) evaluating the validity of any information submitted by any person that was used by the consumer reporting agency in the reinvestigation of the initial dispute;

''(V) verifying that the consumer reporting agency has a record of the information being disputed; and

''(VI) applying any additional factors or investigative processes, as specified by the Bureau.

''(D) NOTICE OF APPEAL RESULTS.—Not later than 5 days after the end of the 20-day period described under subparagraph (A) (or the 10-day extension period, as applicable) the consumer reporting agency shall provide the consumer with written notice of the results of the appeal by postal mail or, if requested by the consumer, by other means. The contents of such notice shall include—

''(i) a statement that the appeal is completed and the date on which it was completed, the results of the appeal, and the specific reasons supporting the results of the appeal;

''(ii) a copy of all information relating to the consumer that was used as a basis for deciding the results of the appeal;

''(iii) a consumer report that is based upon the consumer's file as that file may have been revised as a result of the appeal;

''(iv) a description of the procedure used to determine the accuracy and completeness of the information, including the business name, telephone number, mailing address, and Internet website address (if applicable) of any person who provided information that was contacted in connection with such information, if reasonably available;

''(v) information describing that the consumer may submit a statement, without charge, disputing the accuracy or completeness of information in the consumer's file that was the subject

of an appeal under this subsection by submitting a statement directly to each consumer reporting agency that received the information;

''(vi) a description of the consumer's rights pursuant to subsection (d) (relating to furnishing notifications to certain users of consumer reports); and

''(vii) any other information, as determined by the Bureau.

''(E) NO EXCUSE FOR FAILURE TO CONDUCT APPEAL.—A consumer reporting agency may not refuse to conduct a review of an appeal under this subsection because the agency determines that the notice of appeal was submitted by an authorized third party, unless the agency has clear and convincing evidence that the third party is not authorized to submit the notice of appeal on the consumer's behalf. If the consumer reporting agency refuses to conduct a review of the appeal for these reasons, it shall provide a clear and conspicuous written notice to the consumer explaining the reasons for the refusal and describing any information the consumer is required to provide for the agency to conduct a review of the appeal.''.

(b) APPEALS OF INVESTIGATIONS CONDUCTED BY FURNISHERS OF INFORMATION.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by adding at the end the following new paragraph:

''(10) DUTY OF FURNISHERS OF INFORMATION UPON NOTICE OF APPEAL OF INVESTIGATION.—

''(A) IN GENERAL.—Within 120 days of the date of receipt of the results of an investigation conducted under paragraph (8)(E), a consumer may, free of charge, appeal such results by submitting a notice of appeal to the person who provided the information in the dispute to a consumer reporting agency (hereafter in this paragraph referred to as the 'furnisher').

''(B) NOTICE OF APPEAL.—A notice of appeal described in subparagraph (A) may be submitted in writing, through a toll-free telephone number, or by other electronic means established by the furnisher, and—

''(i) shall identify the information contained in the consumer's file that is the subject of the appeal;

''(ii) shall describe the specific reasons for submitting the notice of appeal; and

''(iii) may include any information, including substantiating documents, the consumer believes is relevant to the appeal.

''(C) FURNISHER ACTIONS.—Upon receipt of such notice of appeal, the furnisher shall—

''(i) before the end of the period of 3 business days beginning on the date on which the furnisher receives the notice of appeal, notify each consumer reporting agency to which the person furnished such information a statement identifying the items of information that a consumer is appealing; and

''(ii) notify the consumer confirming the receipt of the consumer's notice of appeal, including an approximate date when the consumer's appeal will be completed, the process and procedures by which a review of the appeal will be conducted, and the specific individual designated by the consumer reporting agency who, upon the request of the consumer, may discuss the substance and status of the appeal.

''(D) FURNISHER REQUIREMENTS UPON RECEIPT OF NOTICE OF APPEAL.—Not later than 20 days after receiving a notice of appeal, the furnisher shall determine whether the item of information being disputed by the consumer is inaccurate, incomplete, or cannot be verified, and shall notify the consumer reporting agency of the determination. If the furnisher cannot verify the accuracy or completeness of the disputed information, the furnisher shall, before the end of the 20-day period beginning on the date on which the furnisher receives notice of an appeal from the consumer, submit instructions to the consumer reporting agency that the item of information being disputed by the consumer should be deleted from the file of the consumer.

''(E) MINIMUM STANDARDS FOR APPEALS EMPLOYEES.—Upon receipt of a notice of appeal under subparagraph (A), a furnisher shall designate one or more specific employees who—

''(i) shall be assigned an employee reference number or other employee identifier that can be used by the consumer to discuss the appeal with the specific individuals handling the appeal;

''(ii) shall have direct authority to resolve the dispute that is the subject of the notice of appeal on behalf of the furnisher from the review stage to its completion;

''(iii) shall meet minimum training and ongoing certification requirements at regular intervals, as established by the Bureau;

''(iv) may not have been involved in an investigation conducted pursuant to paragraph (8); and

''(v) may not be subject to any requirements linking incentives, including promotion, to the number of appeals processed within a certain time period.

''(F) REQUIREMENTS FOR APPEALS PROCESS.—Such employees shall conduct a robust review of the appeal and make a determination regarding the accuracy and completeness of the disputed information by—

''(i) conducting an independent analysis, separate from any reinvestigation by a reseller or consumer reporting agency, of the disputed information;

''(ii) verifying that the personally identifiable information related to the dispute is accurate and complete;

''(iii) analyzing the notice of appeal and all information, including substantiating documents, provided by the consumer with the notice of appeal;

''(iv) evaluating the validity of any information submitted by any person that was used by the furnisher in the initial investigation into the dispute;

''(v) verifying that the information being disputed relates to the consumer in whose file the information is located;

''(vi) verifying that the furnisher has a record of the information being disputed; and

''(vii) applying any additional factors or investigative processes, as specified by the Bureau.

''(G) EXTENSION OF REVIEW PERIOD.—If a consumer submits additional information related to the appeal after the period of 3 business days described in subparagraph (C)(i) and before the end of the 20-day period described in subparagraph (D), the furnisher shall have an additional 10 business days to complete the review of the appeal.

''(H) NOTICE OF APPEAL RESULTS.—Not later than 5 days after the end of the 20-day period described in subparagraph (D) (or the 10-day extension described under subparagraph (G), as applicable) the furnisher shall provide the consumer with written notice of the results of the appeal by mail or, if requested by the consumer, by other means. The contents of such notice shall include—

''(i) a statement that the appeal is completed and the date on which it was completed, the results of the appeal, and the specific reasons supporting the results of the appeal;

''(ii) a copy of all information relating to the consumer that was used as a basis for deciding the results of the appeal;

''(iii) if the appeal results in any change to the consumer report, a notification that the consumer shall receive a copy, free of charge, of a revised consumer report (based upon the consumer's file as that file was changed as a result of the appeal) and a credit score or educational credit score (if applicable) from each consumer reporting agency that had been furnished incorrect information;

''(iv) a description of the procedure used to determine the accuracy and completeness of the information, including the business name, telephone number, mailing address, and Internet website address (if applicable), of any person who provided information that was contacted in connection with such information, if reasonably available;

''(v) information describing that the consumer may submit a statement, without charge, disputing the accuracy or completeness of information in the consumer's file that was the subject of an appeal under this paragraph by submitting a statement directly to each consumer reporting agency that received the information; and

''(vi) a notification that the consumer may request the furnisher to submit to each consumer reporting agency the consumer's request to furnish notifications pursuant to section 611(d) (relating to furnishing notifications to certain users of consumer reports).''.

(c) TECHNICAL AMENDMENT.—Section 623(a)(8)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(8)(A)) is amended by striking ''reinvestigate'' and inserting ''investigate''.

(d) CONFORMING AMENDMENTS.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended—

(1) in subsection (c)—

(A) by striking ''Commission'' and inserting ''Bureau'' each place that term appears;

(B) in the subsection heading, by striking ''RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES'' and inserting ''KEY CONSUMER REPORTING RIGHTS''; and

(C) in paragraph (1)—

(i) in the heading, by striking ''COMMISSION'' and inserting ''BUREAU'';

(ii) in subparagraph (B)—

(I) in clause (ii), by striking ''a consumer report without charge under section 612'' and inserting ''consumer reports and credit scores or educational credit scores (as applicable) without charge under section 612'';

(II) in clause (iii), by inserting ''or section 623'' after ''section 611'';

(III) by striking clauses (iv) and (vi);

(IV) by inserting after clause (iii) the following new clause:

''(iv) the right of a consumer to appeal a determination of a reinvestigation conducted by a consumer reporting agency under section 611(i) or an investigation conducted by a furnisher of information under section 623(a)(10);''; and

(V) by adding at the end the following new clause:

''(vi) the method and circumstances under which consumers can obtain a 1-year fraud alert, 7-year fraud alert, active duty alert, or security freeze as described in section 605A through a consumer reporting agency described under section 603(p).'';

(iii) in subparagraph (C) (as amended by subparagraph (A)) by inserting ''and the Commission'' after ''Bureau''; and

(iv) by adding at the end the following new subparagraph:

''(D) PUBLICATION OF SUMMARY RIGHTS.—A consumer reporting agency described under subsection (p) or (x) of section 603 shall display in a clear and conspicuous manner, including on the Internet website of the consumer reporting agency, the summary of rights prepared by the Bureau under this paragraph.''; and

(2) in subsection (d), by inserting ''Bureau and the'' before ''Commission''.

SEC. 106. REVISED CONSUMER REPORTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), as amended by section 105(a)(2), is further amended by adding at the end the following new subsection:

''(j) REQUIREMENT TO SEND REVISED CONSUMER REPORT TO CONSUMER.—Upon receiving a notice described in section 623(a)(8)(E)(iv), each consumer reporting agency shall send to the consumer a revised consumer report and credit score or education credit score (if applicable) based upon the consumer's file as that file was changed as a result of the investigation.''.

SEC. 107. INDICATION OF DISPUTE BY CONSUMERS AND USE OF DISPUTED INFORMATION.

Section 605(f) of the Fair Credit Reporting Act (15 U.S.C. 1681c(f)) is amended to read as follows:

''(f) INDICATION OF DISPUTE.—

''(1) IN GENERAL.—A consumer reporting agency shall include in any consumer report based on the consumer's file a notation identifying any item of information that is currently in dispute by the consumer if—

''(A) a consumer disputes the completeness or accuracy of any item of information contained in a consumer's file pursuant to section 611(a)(1);

''(B) a consumer files with a consumer reporting agency an appeal of a reinvestigation pursuant to section 611(i); or

''(C) the consumer reporting agency is notified by a person that furnished any items of information that are currently in dispute by the consumer that—

''(i) a consumer disputes the completeness or accuracy of any information furnished by a person to any consumer reporting agency pursuant to paragraph (3) or (8) of section 623(a); or

''(ii) a consumer submits a notice of appeal under section 623(a)(10).

''(2) OPT OUT.—A consumer may submit a request to a consumer reporting agency or a person who furnished the information in dispute, as applicable, to have the notation described in paragraph (1) omitted from the consumer report. Upon receipt of such a request—

''(A) by a consumer reporting agency, such agency shall remove the notation within 1 business day; and

''(B) by a person who furnished the information in dispute, such person shall submit such request to each consumer reporting agency to which the person furnished such information within 1 business day and such agency shall remove the notation within 1 business day of receipt of such request.''.

SEC. 108. ACCURACY AND COMPLETENESS REPORT DUTIES FOR CONSUMER REPORTING AGENCIES AND FURNISHERS.

Section 607(b) of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended to read as follows:

''(b) ACCURACY AND COMPLETENESS OF REPORT.—

''(1) IN GENERAL.—In preparing a consumer report, a consumer reporting agency shall maintain reasonable procedures to ensure maximum possible accuracy and completeness of the information concerning the individual to whom the consumer report relates.

''(2) BUREAU RULE TO ASSURE MAXIMUM POSSIBLE ACCURACY AND COMPLETENESS WITH CREDIT REPORTING PRACTICES.—

''(A) RULE.—Not later than 18 months after the date of enactment of this subsection, the Bureau shall issue a final rule establishing the procedures described in paragraph (1).

''(B) REQUIREMENTS.—In formulating the rule required under subparagraph (A), the Bureau shall—

''(i) develop standards for matching the personally identifiable information included in the consumer's file with the personally identifiable information furnished by the person who provided the information to the consumer reporting agency (hereafter in this subsection referred to as the 'furnisher'), including the full name of a consumer, the date of birth of a consumer, the full social security number of a consumer, and any other information that the Bureau determines would aid in assuring maximum possible accuracy and completeness of such consumer reports;

''(ii) establish processes for a consumer reporting agency to monitor the integrity of the data provided by furnishers and the compliance of furnishers with the requirements of this title;

''(iii) establish processes for a consumer reporting agency to regularly reconcile data relating to accounts in collection, including those that have not been paid in full, by specifying the circumstances under which the consumer reporting agency shall remove or suppress negative or adverse information from a consumer's file that has not been updated by a furnisher who is also a debt collector (as defined in section 803 of the Fair Debt Collection Practices Act) within the time period established by the Bureau;

''(iv) establish procedures to require each consumer reporting agency to review and monitor the quality of information received from any source, including information from public records, by regularly and on an ongoing basis comparing the information received to the information available from the original source and ensuring that the information received is the most current information;

''(v) develop standards and procedures for consumer reporting agencies to identify furnishers that repeatedly fail to provide accurate and complete information, to take corrective action against such furnishers, and to reject information submitted by such furnishers;

''(vi) develop standards and procedures for consumer reporting agencies to adopt regarding collection of public record data, including standards and procedures to consider the ultimate data source, how the public record information is filed and its availability and accessibility, and whether information relating to the satisfaction of judgments or other updates to the public record are available on a reasonably timely basis from a particular source; and

''(vii) establish any other factors, procedures, or processes determined by the Bureau to be necessary to assist consumer reporting agencies in achieving maximum possible accuracy and completeness of the information in consumer reports.

''(3) CORRECTIVE ACTION FOR FURNISHERS THAT REPEATEDLY FURNISH INACCURATE OR INCOMPLETE INFORMATION.—Upon identifying a furnisher that repeatedly fails to furnish accurate, complete, or verifiable information to consumer reporting agencies, the Bureau shall—

''(A) ensure the prompt removal of any adverse information relating to a consumer's accounts submitted by such furnisher; and

''(B) take corrective action, which may include—

''(i) mandatory revised training and training materials for the staff of the furnisher regarding the furnishing of accurate and complete information;

''(ii) sharing industry best practices and procedures regarding accuracy and completeness; or

''(iii) temporarily prohibiting a furnisher from providing information to a consumer reporting agency.''.

SEC. 109. INCLUSION OF PUBLIC RECORD DATA SOURCES IN CONSUMER REPORTS.

Section 605(d) of the Fair Credit Reporting Act (15 U.S.C. 1681c(d)) is amended by adding at the end the following:

''(3) PUBLIC RECORD DATA SOURCE.—Any consumer reporting agency that furnishes a consumer report that contains public record data shall also include in such report the source from which that data was obtained, including the particular court, if any, and the date that the data was initially reported or publicized.''.

SEC. 110. INJUNCTIVE RELIEF FOR VICTIMS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 616—

(A) in subsection (a), by amending the subsection heading to read as follows: ''DAMAGES'';

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

''(c) INJUNCTIVE RELIEF.—In addition to any other remedy set forth in this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer. In the event of any successful action for injunctive relief under this subsection, the court may award to the prevailing party costs and reasonable attorney fees (as determined by the court) incurred during the action by such party.''; and

(2) in section 617—

(A) in subsection (a), by amending the subsection heading to read as follows: ''DAMAGES'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following new subsection:

''(b) INJUNCTIVE RELIEF.—In addition to any other remedy set forth in this section, a court may award injunctive relief to require compliance with the requirements imposed under this title with respect to any consumer. In the event of any successful action for injunctive relief under this subsection, the court may award to the prevailing party costs and reasonable attorney fees (as determined by the court) incurred during the action by such party.''.

(b) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Section 621(a)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)(2)(A)) is amended—

(1) by amending the subparagraph heading to read as follows: ''NEGLIGENT, WILLFUL, OR KNOWING VIOLATIONS''; and

(2) by inserting ''negligent, willful, or'' before ''knowing''.

TITLE II—FREE CREDIT SCORES FOR CONSUMERS

SEC. 201. DEFINITIONS.

(a) IN GENERAL.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

''(bb) CREDIT SCORE AND EDUCATIONAL CREDIT SCORE DEFINITIONS.—

''(1) CREDIT SCORE.—The term 'credit score' means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan or extends credit to predict the likelihood of certain credit behaviors, including default, as determined by the Bureau.

''(2) EDUCATIONAL CREDIT SCORE.—The term 'educational credit score' means a numerical value or categorization derived from a statistical tool or modeling system based upon information from a consumer report that assists consumers in understanding how a lender or creditor may view the consumer's creditworthiness in deciding whether to make a loan or extend credit to that consumer.

''(3) KEY FACTORS.—The term 'key factors' means any relevant elements or reasons affecting the credit score for the particular individual, listed in the order of importance based on the effect of each element or reason on the credit score or educational credit score.

''(4) CREDIT SCORING MODEL.—The term 'credit scoring model' means a scoring algorithm, formula, model, program, or mechanism used to generate a credit score or an educational credit score.''.

(b) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 605(d)(2), by striking ''(as defined in section 609(f)(2)(B))''; and

(2) in section 615—

(A) by striking ''as defined in section 609(f)(2)(A)'' each place that term appears; and

(B) in subsection (a)(2)(B), by striking ''set forth in subparagraphs (B) through (E) of section 609(f)(1)'' and inserting ''with respect to a credit score described in section 609(f)(2), if available''.

SEC. 202. CONSUMER INFORMATION ON CALCULATION OF SCORES.

Section 609(f) of the Fair Credit Reporting Act (15 U.S.C. 1681g(f)) is amended to read as follows:

''(f) DISCLOSURE OF CREDIT SCORE AND EDUCATIONAL CREDIT SCORE BY CONSUMER REPORTING AGENCIES.—

''(1) IN GENERAL.—Upon the request of a consumer for a credit score or educational credit score, a consumer reporting agency shall supply to the consumer a statement—

''(A) containing—

''(i) a current credit score at the time of the request generated using a commonly used credit scoring model to generate credit scores, subject to regulations of the Bureau;

''(ii) an educational credit score at the time of the request, if it is not practicable to generate such a credit score, as determined by the Bureau; or

''(iii) an explanation that the consumer's file does not have sufficient information from which to generate such a credit score or educational credit score; and

''(B) with respect to each previous credit score in the file of the consumer—

''(i) the date on which the credit score was generated;

''(ii) the name of any entity that the credit score was provided to; and

''(iii) the credit score itself.

''(2) REQUIREMENTS.—A statement provided under clause (i) or (ii) of paragraph (1)(A) shall include—

''(A) a minimum of 4 key factors, if available, that adversely affected the credit score or educational credit score, except that if one of the key factors consists of the number of enquiries made with respect to a consumer report, that factor shall be provided to the consumer in addition to the factors required by this subparagraph;

''(B) to the extent possible, specific actions a consumer could take with respect to each key factor listed in subparagraph (A) to improve the consumer's credit score or educational credit score;

''(C) a minimum of 4 key factors, if available, that positively affected the credit score or educational credit score;

''(D) the range of possible credit scores or educational credit scores under the credit scoring model used;

''(E) the distribution of credit scores or educational credit scores among consumers who are scored under the same credit scoring model by the consumer reporting agency, and using the same scale as that of the score that is provided to a creditor or consumers—

''(i) in the form of a bar graph containing a minimum of 6 bars that illustrates the percentage of consumers with credit scores or educational credit scores within the range of scores represented by each bar; or

''(ii) by another clear and readily understandable graphical depiction, statement, or illustration comparing the consumer's credit score or educational credit score to the scores of other consumers, as determined by the Bureau;

''(F) the date on which the credit score or educational credit score was created; and

''(G) the name of the person that developed the credit scoring model on which the credit score or educational credit score was based.

''(3) APPLICABILITY TO CERTAIN USES.—This subsection shall not be construed so as to compel a consumer reporting agency to—

''(A) develop or disclose a credit score if the agency does not distribute credit scores used by a person who makes or arranges a loan or extends credit to predict the likelihood of certain credit behaviors; or

''(B) develop or disclose an educational credit score if the agency does not develop educational credit scores that assist in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

''(4) MAINTENANCE OF CREDIT SCORES.—

''(A) IN GENERAL.—All consumer reporting agencies shall maintain in the consumer's file credit scores relating to the consumer for a period of 2 years from the date on which such information is generated.

''(B) DISCLOSURE ONLY TO CONSUMERS.—A past credit score maintained in a consumer's file pursuant to subparagraph (A) may only be provided to the consumer to which the credit score relates and may not be included in a consumer report or used as a factor in generating a credit score or educational credit score.

''(C) REMOVAL OF PAST CREDIT SCORES.—A past credit score maintained in a consumer's file pursuant to subparagraph (A) shall be removed from the consumer's file after the end of the 2-year period described under subparagraph (A).''.

SEC. 203. DISCLOSURES RELATING TO CREDIT SCORES AND EDUCATIONAL CREDIT SCORES.

Section 609(f) of the Fair Credit Reporting Act (15 U.S.C. 1681g(f)), as amended by section 202, is further amended by adding at the end the following new paragraphs:

''(5) WEBSITE DISCLAIMER.—A consumer reporting agency that generates or provides credit scores or educational credit scores shall clearly and conspicuously display on the home page of the agency's Internet website, and as part of any application, solicitation, or marketing material or media providing information related to a credit score or educational credit score, the following notice, in boldface type of 18-point font or larger and in a text box with boldface outer borders:

''CREDIT SCORE DISCLAIMER. ''

There is no ''one'' credit score. There are many scoring formulas derived from a wide variety of models available to a consumer and used by lenders and creditors. Different lenders and creditors use different scoring formulas to determine whether to extend credit or make a loan to you, and the terms of the credit or loan. An educational credit score is not a credit score that a person who makes a loan or extends credit to you is likely to use. Educational credit scores are merely intended to be used as an educational tool to help consumers understand how the information contained in a consumer report may affect the terms and conditions of a loan or extension of credit that may be available to a consumer. Lenders and creditors may also rely on information not contained in your consumer report and not reflected in the calculation of your credit score.'.

''(6) ADDITIONAL REQUIREMENTS FOR EDUCATIONAL CREDIT SCORES.—

''(A) DISCLAIMER.—If an educational credit score is provided pursuant to paragraph (1), a consumer reporting agency shall clearly and conspicuously include in a prominent location on the statement, in boldface type of 18-point font or larger, and in a text box with boldface outer borders, the following notice:

''EDUCATIONAL CREDIT SCORE DISCLAIMER. ''

The educational credit score provided to you is not a credit score that a lender or creditor is likely to use to make a loan or extend credit to you. There are many different credit scores derived from a wide variety of models used by lenders and creditors. An educational credit score is merely an educational tool. It is intended to provide consumers with a basic understanding of how the information contained in a consumer report may affect the terms and conditions of credit that are available. The credit scores you receive directly from different lenders and creditors may not be the same as an educational credit score. There are a number of reasons for this:

''(1) Each company may use a different formula for calculating credit scores and the differences in the formulas may lead to differences in your scores.

''(2) Companies may produce scores that give results on different scales.

''(3) Not all lenders or creditors report to every consumer reporting agency, and therefore the information contained in your consumer report that the consumer reporting agencies use to calculate your educational credit score may differ among agencies.'.

''(B) PROHIBITION ON MISLEADING REPRESENTATIONS.—A consumer reporting agency may not refer to an educational credit score as a credit score in any application, solicitation, marketing, or other informational materials or media.

''(7) MODIFICATION OF DISCLAIMERS.—The Bureau may modify the content, format, and manner of the disclaimers required under paragraphs (5) and (6), if warranted, after conducting consumer testing or research.''.

SEC. 204. FREE CREDIT SCORE DISCLOSURES AND CONSUMER REPORTS.

(a) IN GENERAL.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting after ''section 609'' the following: ''(including the disclosure of a credit score or educational credit score under subsection (f) of such section)''; and

(ii) in subparagraph (C)—

(I) by striking ''Commission'' and inserting ''Bureau''; and

(II) by inserting '', credit scores, and educational credit scores (as applicable)'' after ''consumer reports'' each place that term appears;

(B) in paragraph (2)—

(i) by striking ''15 days'' and inserting ''3 business days''; and

(ii) by inserting '', credit score, or educational credit score'' after ''consumer report'';

(C) in paragraph (3), by inserting '', credit score, or educational credit score'' after ''consumer report''; and

(D) in paragraph (4), by inserting '', credit scores, or educational credit scores'' after ''consumer reports'';

(2) in subsection (b), by inserting ''(including the disclosure of a credit score or educational credit score, as applicable, under subsection (f) of such section)'' after the first instance of ''section 609'';

(3) in subsection (c)—

(A) by inserting ''(including the disclosure of a credit score or educational credit score under subsection (f) of such section)'' after ''pursuant to section 609'';

(B) in paragraph (2), by striking ''; or'' and inserting a semicolon;

(C) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

''(4) has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623, regardless of whether the consumer has already received a credit report, credit score, or educational credit score under section 611 or 623; or

''(5) has had information that was previously deleted under section 611(a)(5) reinserted into the consumer's file, regardless of whether the consumer has already received a credit report, credit score, or educational credit score under such section.'';

(4) in subsection (d), by inserting ''(including the disclosure of a credit score or educational credit score under subsection (f) of such section)'' after ''section 609'';

(5) in subsection (f)(1)—

(A) by striking ''reasonable charge'' and all that follows through ''section 609'' and inserting ''reasonable charge on a consumer for providing a consumer report to a consumer'';

(B) by striking subparagraph (B);

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively (and conforming the margins accordingly); and

(D) in subparagraph (B) (as so redesignated), by striking ''disclosure; and'' and inserting ''disclosure.''; and

(6) by adding at the end the following new subsections:

''(h) CENTRALIZED SOURCE FOR OBTAINING FREE COPY OF CONSUMER REPORT AND SCORES.—

''(1) NATIONWIDE CONSUMER REPORTING AGENCIES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, each consumer reporting agency described under subsection (p) of section 603 shall prominently

display on the home page of the agency's website—

''(i) a hyperlink labeled 'Get Your Free Annual Credit Reports along with either your Credit Scores or Educational Credit Scores provided for under Federal Law' or substantially similar text, as determined by the Bureau; and

''(ii) a disclosure titled 'Consumer's Right to Free Credit Scores, Educational Credit Scores, and Reports under Federal Law' or substantially similar text, as determined by the Bureau that includes the following statement:

'''All consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score annually from each of the nationwide consumer reporting agencies. Under Federal law, a consumer is entitled to obtain additional free copies of their consumer reports, along with a copy of either the consumer's credit score or educational credit score (under certain circumstances), including:

'''(1) When a consumer is unemployed and intends to apply for employment within 60 days.

'''(2) When a consumer is a recipient of public welfare assistance.

'''(3) When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.

'''(4) When a consumer asserts in good faith a suspicion that the consumer has been or is about to become a victim of identity theft, fraud, or a related crime, or harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information.

'''(5) When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.

'''(6) After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.

'''(7) After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.

'''(8) When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer's reports or scores for underwriting purposes.'.

''(B) HYPERLINK REQUIREMENTS.—The hyperlink described in subparagraph (A)(i) shall be prominently located on the top of the home page and should link directly to the website of the centralized source established pursuant to section 211(d) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681j note).

''(C) MODIFICATIONS.—The Bureau may modify the disclosure described in subparagraph (A)(ii) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report, credit score, or educational credit score.

''(2) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCIES.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, each nationwide specialty consumer reporting agency shall prominently display on the Internet home webpage of the agency a disclosure titled 'Consumer's Right to Free Consumer Reports and Credit Score or Educational Credit Score (as applicable) under Federal Law'. Such disclosure shall include the following statement:

'''Upon request, all consumers are entitled to obtain a free copy of their consumer report and credit score or educational credit score (as applicable) during any 12-month period from each of the nationwide specialty consumer reporting agencies. Federal law also provides further circumstances under which a consumer is entitled to obtain additional free copies of their consumer report and credit score or educational credit score (as applicable) including:

'''(1) When a consumer is unemployed and intends to apply for employment within 60 days.

'''(2) When a consumer is a recipient of public welfare assistance.

'''(3) When a consumer has a reasonable belief that their report contains inaccuracies as a result of fraud.

'''(4) When a consumer files a dispute or an appeal of the results of a dispute with a consumer reporting agency or a person who furnished information to the consumer reporting agency regarding the accuracy or completeness of the information contained on their report.

'''(5) After a furnisher of information discovers it has furnished inaccurate or incomplete information to a consumer reporting agency, and the furnisher notifies the agency of the error.

'''(6) After an adverse action is taken against a consumer or a consumer receives a risk-based pricing notice.

'''(7) When a mortgage lender, private educational lender, indirect auto lender, or motor vehicle lender obtains and uses a consumer's reports or scores for underwriting purposes.'.

''(B) MODIFICATIONS.—The Bureau may modify the disclosure described in subparagraph (A) as necessary to include other circumstances under which a consumer has the right to receive a free consumer report and credit score or educational credit score (as applicable).

''(C) TOLL-FREE TELEPHONE ACCESS.—The information described in this paragraph shall also be made available via a toll-free telephone number. Such number shall be prominently displayed on the home page of the website of each nationwide specialty consumer reporting agency. Each of the circumstances under which a consumer may obtain a free consumer report and credit score or educational credit score (as applicable) shall be presented in an easily understandable format and consumers shall be directed to an individual who is a customer service representative not later than 2 minutes after the initial phone connection is made by the consumer. Information provided through such telephone number shall comply with the requirements of section 633.

''(D) ONLINE CONSUMER REPORTS; EXEMPTION.—Upon receipt of a request by a consumer for a consumer report, each nationwide specialty consumer reporting agency shall provide access to such report electronically on the Internet website described in section 611(h).

''(i) AUTOMATIC PROVISION OF FREE CONSUMER REPORTS AND CREDIT SCORES OR EDUCATIONAL CREDIT SCORES.—A consumer reporting agency shall provide to a consumer a free copy of the file and credit score or educational credit score of the consumer who—

''(1) obtains a 1-year fraud alert, 7-year fraud alert, active duty alert, or security freeze as described in section 605A; or

''(2) has disputed information, or submitted an appeal of an investigation or reinvestigation of such information, under section 611 or 623.''.

(b) TECHNICAL AMENDMENT.—Section 615(h)(7) of such Act (15 U.S.C. 1681m(h)(7)) is amended by striking ''section'' each place such term appears and inserting ''subsection''.

SEC. 205. PROVISION OF CONSUMER REPORTS AND CREDIT SCORES BY PRIVATE EDUCATIONAL LENDERS.

Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following new subsection:

''(h) DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES BY PRIVATE EDUCATIONAL LENDERS.—

''(1) IN GENERAL.—If a private educational lender obtains a copy of any consumer reports or credit scores and uses such reports or scores in connection with an application of a consumer for a private education loan, the private educational lender shall provide to the consumer, not later than 3 business days after obtaining such reports or scores and before the date on which the consumer enters into a loan agreement with the private educational lender, a copy of any such reports or scores, along with the statement described under subsection (f)(2).

''(2) COSTS.—None of the costs to the private educational lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.''.

SEC. 206. PROVISION OF CONSUMER REPORTS AND CREDIT SCORES BY MOTOR VEHICLE LENDERS OR INDIRECT AUTO LENDERS.

Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by section 205, is further amended by adding at the end the following new subsection:

''(i) DISCLOSURE OF CONSUMER REPORTS AND CREDIT SCORES USED BY MOTOR VEHICLE LENDERS OR INDIRECT AUTO LENDERS.—

''(1) IN GENERAL.—If a motor vehicle lender or indirect auto lender obtains a copy of any consumer reports or credit scores and uses such reports or scores in connection with an application of a consumer for a motor vehicle loan or lease, the motor vehicle lender or indirect auto lender shall provide to the consumer a document, separate from the consumer's lease or purchase agreement and before the consumer enters into a lease or purchase agreement, disclosing any consumer reports and credit scores, including the statement described in subsection (f)(2), used by the lender to determine whether to extend credit to the consumer.

''(2) COSTS.—None of the costs to the motor vehicle lender or indirect auto lender associated with procuring consumer reports or credit scores under this subsection may be charged, directly or indirectly, to the consumer.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for creditors and lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.

''(4) DEFINITIONS.—

''(A) INDIRECT AUTO LENDER.—The term 'indirect auto lender' has the meaning given the term by the Bureau, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.

''(B) MOTOR VEHICLE LENDER.—The term 'motor vehicle lender' has the meaning given the term by the Board of Governors of the Federal Reserve System, and shall include a person extending a loan made with respect to a car, boat, motorcycle, recreational vehicle, or other similar vehicle used primarily for personal or household purposes.''.

SEC. 207. PROVISION OF CONSUMER REPORTS AND CREDIT SCORES BY RESIDENTIAL MORTGAGE LENDERS.

Section 609(g) of the Fair Credit Reporting Act (15 U.S.C. 1681g(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (5);

(2) in paragraph (1)—

(A) by striking ''a consumer credit score'' and inserting ''any consumer reports or credit scores'';

(B) by striking '', as defined in subsection (f),'';

(C) by striking ''the following to the consumer as soon as reasonably practicable:'' and inserting '', not later than 3 business days after using such reports or scores, a document disclosing any consumer reports and credit scores used by the lender to determine whether to extend credit to the consumer along with the statement described in subsection (f)(2).'';

(D) by striking subparagraphs (A), (B), (C), (E), and (F);

(E) by redesignating subparagraph (D) as paragraph (3) (and adjusting the margins accordingly); and

(F) by redesignating subparagraph (G) as paragraph (4) (and adjusting the margins accordingly);

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

''(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to eliminate any requirement for lenders to provide credit score disclosures, including the statement described under subsection (f)(2), to consumers as part of an adverse action or risk-based pricing notice.'';

(4) in paragraph (3) (as so designated), in the quoted material—

(A) by inserting '', free of charge,'' after ''disclose to you''; and

(B) by striking ''affecting your credit scores'' and inserting ''affecting your credit score or scores'';

(5) in paragraph (5) (as so redesignated) by inserting ''or scores'' after ''credit score'' each place such term appears; and

(6) by adding at the end the following new paragraphs:

''(6) ACTIONS NOT REQUIRED.—This subsection shall not require any person to disclose any credit score or related information obtained by the person after a loan has closed.

''(7) NO PROCUREMENT COSTS.—None of the costs to the creditor or lender associated with procuring any consumer reports or scores under this subsection may be charged, directly or indirectly, to the consumer.''.

TITLE III—STUDENT BORROWER CREDIT IMPROVEMENT ACT

SEC. 301. REMOVAL OF ADVERSE INFORMATION FOR CERTAIN PRIVATE EDUCATION LOAN BORROWERS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 405, is further amended by inserting after section 605D the following new section:

''§ 605E. Credit rehabilitation for distressed private education loan borrowers.

''(a) IN GENERAL.—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a delinquent or defaulted private education loan of a borrower if the borrower has rehabilitated the borrower's credit with respect to such loan by making 9 on-time monthly payments (in accordance with the terms and conditions of the borrower's original loan agreement or any other repayment agreement that antedates the original agreement) during a period of 10 consecutive months on such loan after the date on which the delinquency or default occurred.

''(b) INTERRUPTION OF 10–MONTH PERIOD FOR CERTAIN CONSUMERS.—

''(1) PERMISSIBLE INTERRUPTION OF THE 10-MONTH PERIOD.—A borrower may stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume. Such grace period shall be provided under the following circumstances:

''(A) With respect to a borrower who is a member of the Armed Forces entitled to incentive pay for the performance of hazardous duty under section 301 of title 37, United States Code, hazardous duty pay under section 351 of such title, or other assignment or special duty pay under section 352 of such title, the grace period shall begin on the date on which the borrower begins such assignment or duty and end on the date that is 6 months after the completion of such assignment or duty.

''(B) With respect to a borrower who resides in an area affected by a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the grace period shall begin on the date on which the major disaster or emergency was declared and end on the date that is 3 months after such date.

''(2) OTHER CIRCUMSTANCES.—

''(A) IN GENERAL.—The Bureau may allow a borrower demonstrating hardship to stop making consecutive monthly payments and be granted a grace period after which the 10-month period described in subsection (a) shall resume.

''(B) BORROWER DEMONSTRATING HARDSHIP DEFINED.—In this paragraph, the term 'borrower demonstrating hardship' means a borrower or a class of borrowers who, as determined by the Bureau, is facing or has experienced unusual extenuating life circumstances or events that result in severe financial or personal barriers such that the borrower or class of borrowers does not have the capacity to comply with the requirements of subsection (a).

''(c) PROCEDURES.—The Bureau shall establish procedures to implement the credit rehabilitation described in this section, including—

''(1) the manner, content, and form for requesting credit rehabilitation;

''(2) the method for validating that the borrower is satisfying the requirements of subsection (a);

''(3) the manner, content, and form for notifying the private educational loan holder of—

''(A) the borrower's participation in credit rehabilitation under subsection (a);

''(B) the requirements described in subsection (d); and

''(C) the restrictions described in subsection (f);

''(4) the manner, content, and form for notifying a consumer reporting agency of—

''(A) the borrower's participation in credit rehabilitation under subsection (a); and

''(B) the requirements described in subsection (d);

''(5) the method for verifying whether a borrower qualifies for the grace period described in subsection (b);

''(6) the manner, content, and form of notifying a consumer reporting agency and private educational loan holder that a borrower was granted a grace period.

''(d) STANDARDIZED REPORTING CODES.—A consumer reporting agency shall develop standardized reporting codes for use by any private educational loan holder to identify and report a borrower's status of making and completing 9 on-time monthly payments during a period of 10 consecutive months on a delinquent or defaulted private education loan, including codes specifying the grace period described in subsection (b) and any agreement to modify monthly payments. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer's credit report upon the consumer's completion of the rehabilitation period under this section.

''(e) ELIMINATION OF BARRIERS TO CREDIT REHABILITATION.—A consumer report in which a private educational loan holder furnishes the standardized reporting codes described in subsection (d) to a consumer reporting agency, or in which a consumer reporting agency includes such codes, shall be deemed to comply with the requirements for accuracy and completeness under sections 607(b), 623(a)(1), and 632.

''(f) PROHIBITION ON CIVIL ACTIONS FOR CONSUMERS PURSUING REHABILITATION.—A private educational loan holder may not commence or proceed with any civil action against a borrower with respect to a delinquent or defaulted loan during the period of rehabilitation if the private educational loan holder has been notified, in accordance with the procedures established by the Bureau pursuant to subsection (c)—

''(1) of such borrower's intent to participate in rehabilitation;

''(2) that such borrower has satisfied the requirements under subsection (a); or

''(3) that such borrower was granted a grace period.

''(g) IMPACT ON STATUTE OF LIMITATIONS FOR PRIOR DEBT.—Payments by a borrower on a private education loan that are made during and after a period of rehabilitation under this section shall have no effect on the statute of limitations with respect to payments that were due on such private education loan before the beginning of the period of rehabilitation.

''(h) PAYMENT PLANS.—If a private educational loan holder enters into a payment plan with a borrower on a private education loan during a period of rehabilitation, such payment plan shall be reasonable and affordable, as determined by the Bureau.

''(i) RULES OF CONSTRUCTION.—

''(1) APPLICATION TO SUBSEQUENT DEFAULT OR DELINQUENCY.—A borrower who satisfies the requirements under subsection (a) shall be eligible for additional credit rehabilitation described in subsection (a) with respect to any subsequent default or delinquency of the borrower on the rehabilitated private education loan.

''(2) INTERRUPTION OF CONSECUTIVE PAYMENT PERIOD REQUIREMENT.—The grace period described in subsection (b)(1)(A) shall not apply if any regulation promulgated under section 987 of title 10, United States Code (commonly known as the Military Lending Act), or the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) allows for a grace period or other interruption of the 10-month period described in subsection (a) and such grace period or other interruption is longer than the period described in subsection (b)(1)(A) or otherwise provides greater protection or benefit to the borrower who is a member of the Armed Forces.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act, as amended by section 405, is further amended by inserting after the item relating to section 605D the following new item:

''605E. Credit rehabilitation for distressed private education loan borrowers who demonstrate a history of loan repayment.''.

(c) CONFORMING AMENDMENT.—Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(a)(1)) is amended by striking subparagraph (E).

SEC. 302. PRIVATE EDUCATION LOAN DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by section 201(a), is further amended by adding at the end the following new subsection:

''(cc) PRIVATE EDUCATION LOAN DEFINITIONS.—The terms 'private education loan' and 'private educational lender' have the meanings given such terms, respectively, in section 140(a) of the Truth in Lending Act.''.

TITLE IV—CREDIT RESTORATION FOR VICTIMS OF PREDATORY ACTIVITIES AND UNFAIR CONSUMER REPORTING PRACTICES

SEC. 401. ADVERSE CREDIT INFORMATION.

(a) IN GENERAL.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by sections 107, 109, and 201, is further amended—

(1) in subsection (a)—

(A) by striking ''Except as authorized under subsection (b), no'' and inserting ''No'';

(B) in paragraph (1), by striking ''10 years'' and inserting ''7 years'';

(C) in paragraph (2), by striking ''Civil suits, civil judgments, and records'' and inserting ''Records'';

(D) in paragraph (3), by striking ''seven years'' and inserting ''4 years'';

(E) in paragraph (4), by striking ''seven years'' and inserting ''4 years'';

(F) in paragraph (5)—

(i) by striking '', other than records of convictions of crimes''; and

(ii) by striking ''seven years'' and inserting ''4 years''; and

(G) by adding at the end the following new paragraphs:

''(9) Civil suits and civil judgments (except as provided in paragraph (8)) that, from date of entry, antedate the report by more than 4 years

or until the governing statute of limitations has expired, whichever is the longer period.

''(10) A civil suit or civil judgment—

''(A) brought by a private education loan holder that, from the date of successful completion of credit restoration or rehabilitation in accordance with the requirements of section 605D or 605E, antedates the report by 45 calendar days; or

''(B) brought by a lender with respect to a covered residential mortgage loan (as defined in section 605C(b)) that antedates the report by 45 calendar days.

''(11) Records of convictions of crimes which antedate the report by more than 7 years.

''(12) Any other adverse item of information relating to the collection of debt that did not arise from a contract or an agreement to pay by a consumer, including fines, tickets, and other assessments, as determined by the Bureau, excluding tax liability.'';

(2) by striking subsection (b) and redesignating subsections (c) through (h) as subsections (b) through (g), respectively; and

(3) in subsection (b) (as so redesignated), by striking ''7-year period referred to in paragraphs (4) and (6)'' and inserting ''4-year period referred to in paragraphs (4) and (5)''.

(b) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681) is amended—

(1) in section 616(e) (as redesignated by section 110(a)(1)(B)), by striking ''section 605(g)'' each place that term appears and inserting ''section 605(f)''; and

(2) in section 625(b)(5)(A), by striking ''section 605(g)'' and inserting ''section 605(f)''.

SEC. 402. EXPEDITED REMOVAL OF FULLY PAID OR SETTLED DEBT FROM CONSUMER REPORTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 401, is further amended by adding at the end the following new paragraph:

''(13) Any other adverse item of information related to a fully paid or settled debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.''.

SEC. 403. MEDICAL DEBT COLLECTIONS.

(a) REMOVAL OF FULLY PAID OR SETTLED MEDICAL DEBT FROM CONSUMER REPORTS.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 402, is further amended by adding at the end the following new paragraph:

''(14) Any other adverse item of information related to a fully paid or settled debt arising from the receipt of medical services, products, or devices that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 calendar days.''.

(b) ESTABLISHING AN EXTENDED TIME PERIOD BEFORE CERTAIN MEDICAL DEBT INFORMATION MAY BE REPORTED.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(15) Any information related to a debt arising from the receipt of medical services, products, or devices, if the date on which such debt was placed for collection, charged to profit or loss, or subjected to any similar action antedates the report by less than 365 calendar days.''.

(c) PROHIBITION ON REPORTING MEDICALLY NECESSARY PROCEDURES.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

''(16) Any information related to a debt arising from a medically necessary procedure.''.

(d) MEDICALLY NECESSARY PROCEDURE DEFINED.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by section 901, is further amended by adding at the end the following:

(ee) MEDICALLY NECESSARY PROCEDURE.—The term 'medically necessary procedure' means—

''(1) health care services or supplies needed to diagnose or treat an illness, injury, condition, disease, or its symptoms and that meet accepted standards of medicine; and

''(2) health care to prevent illness or detect illness at an early stage, when treatment is likely to work best (including preventive services such as pap tests, flu shots, and screening mammograms).''.

(e) TECHNICAL AMENDMENT.—Section 604(g)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)(1)(C)) is further amended by striking ''devises'' and inserting ''devices''.

SEC. 404. CREDIT RESTORATION FOR VICTIMS OF PREDATORY MORTGAGE LENDING AND SERVICING.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following new section:

''§ 605C. Credit restoration for victims of predatory mortgage lending

''(a) IN GENERAL.—A consumer reporting agency may not furnish any consumer report containing any adverse item of information relating to a covered residential mortgage loan (including the origination and servicing of such a loan, any loss mitigation activities related to such a loan, and any foreclosure, deed in lieu of foreclosure, or short sale related to such a loan), if the action or inaction to which the item of information relates—

''(1) resulted from an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity of a financial institution, as determined by the Bureau or a court of competent jurisdiction; or

''(2) is related to an unfair, deceptive, or abusive act, practice, or a fraudulent, discriminatory, or illegal activity of a financial institution that is the subject of a settlement agreement initiated on behalf of a consumer or consumers and that is between the financial institution and an agency or department of a local, State, or Federal Government, regardless of whether such settlement includes an admission of wrongdoing.

''(b) COVERED RESIDENTIAL MORTGAGE LOAN DEFINED.—In this section, the term 'covered residential mortgage loan' means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(w) of the Truth in Lending Act), including a loan in which the proceeds will be used for—

''(1) a manufactured home (as defined in section 603 of the Housing and Community Development Act of 1974);

''(2) any installment sales contract, land contract, or contract for deed on a residential property; or

''(3) a reverse mortgage transaction (as defined in section 103 of the Truth in Lending Act).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act is amended by inserting after the item relating to section 605B the following new item:

''605C. Credit restoration for victims of predatory mortgage lending.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 18-month period beginning on the date of the enactment of this Act.

SEC. 405. CREDIT RESTORATION FOR CERTAIN PRIVATE EDUCATION LOANS BORROWERS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 404, is further amended by inserting after section 605C the following new section:

''§ 605D. Credit restoration for certain private education loans borrowers

''(a) PROCESS FOR CERTIFICATION AS A QUALIFYING PRIVATE EDUCATION LOAN BORROWER.—

''(1) IN GENERAL.—A consumer may submit a request to the Bureau, along with a defraudment claim, to be certified as a qualifying private education loan borrower with respect to a private education loan.

''(2) CERTIFICATION.—The Bureau shall certify a consumer described in paragraph (1) as a qualifying private education loan borrower with respect to a private education loan if the Bureau or a court of competent jurisdiction determines that the consumer has a valid defraudment claim with respect to such loan.

''(b) REMOVAL OF ADVERSE INFORMATION.—Upon receipt of a notice described in subsection (d)(5), a consumer reporting agency shall remove any adverse information relating to any private education loan with respect to which a consumer is a qualifying private education loan borrower from any consumer report within 45 calendar days of receipt of such notification.

''(c) DISCLOSURE.—The Bureau shall disclose the results of a certification determination in writing to the consumer that provides a clear and concise explanation of the basis for the determination of whether such consumer is a qualifying private education loan borrower with respect to a private education loan and, as applicable, an explanation of the consumer's right to have adverse information relating to such loan removed from their consumer report by a consumer reporting agency.

''(d) PROCEDURES.—The Bureau shall—

''(1) establish procedures for a consumer to submit a request described in subsection (a);

''(2) establish procedures to efficiently review, accept, and process such a request;

''(3) develop ongoing outreach initiatives and education programs to inform consumers of the circumstances under which such consumer may be eligible to be certified as a qualifying private education loan borrower with respect to a private education loan;

''(4) establish procedures, including the manner, form, and content of the notice informing a private educational loan holder of the prohibition on reporting any adverse information relating to a private education loan with respect to which a consumer is a qualifying private education loan borrower; and

''(5) establish procedures, including the manner, form, and content of the notice informing a consumer reporting agency of the obligation to remove any adverse information as described in subsection (c).

''(e) STANDARDIZED REPORTING CODES.—A consumer reporting agency shall develop standardized reporting codes for use by private education loan holders to identify and report a qualifying private education loan borrower's status of a request to remove any adverse information relating to any private education loan with respect to which such consumer is a qualifying private education loan borrower. A consumer report in which a person furnishes such codes shall be deemed to comply with the requirements for accuracy and completeness required under sections 607(b), 623(a)(1), and 632. Such codes shall not appear on any report provided to a third party, and shall be removed from the consumer's credit report upon the successful restoration of the consumer's credit under this section.

''(f) DEFRAUDMENT CLAIM DEFINED.—For purposes of this section, the term 'defraudment claim' means a claim made with respect to a consumer who is a borrower of a private education loan with respect to a proprietary educational institution or career education program in which the consumer alleges that—

''(1) the proprietary educational institution or career education program—

''(A) engaged in an unfair, deceptive, or abusive act or practice, or a fraudulent, discriminatory, or illegal activity—

''(i) as defined by State law of the State in which the proprietary educational institution or career education program is headquartered or maintains or maintained significant operations; or

''(ii) under Federal law;

''(B) is the subject of an enforcement order, a settlement agreement, a memorandum of understanding, a suspension of tuition assistance, or any other action relating to an unfair, deceptive, or abusive act or practice that is between the proprietary educational institution or career education program and an agency or department of a local, State, or Federal Government; or

''(C) misrepresented facts to students or accrediting agencies or associations about graduation or gainful employment rates in recognized occupations or failed to provide the coursework necessary for students to successfully obtain a professional certification or degree from the proprietary educational institution or career education program; or

''(2) the consumer has submitted a valid defense to repayment claim with respect to such loan, as determined by the Secretary of Education.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act, as amended by section 404, is further amended by inserting after the item relating to section 605C the following new item:

''605D. Credit restoration for certain private education loans borrowers.''.

SEC. 406. FINANCIAL ABUSE PREVENTION.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 301, is further amended by inserting after section 605E the following new section:

''§ 605F. Financial abuse prevention

''For a consumer who is the victim of intentionally abusive or harmful financial behavior, as determined by a court of competent jurisdiction including a family court, juvenile court, or other court with personal jurisdiction, that was conducted by a spouse, family or household member, caregiver, or person with whom such consumer had a dating relationship in a manner which resulted in the inclusion of an adverse item of information on the consumer report of the consumer, and the consumer did not participate in or consent to such behavior, the consumer may apply to a court of competent jurisdiction, including a family court, juvenile court, or other court with personal jurisdiction, for an order to require the removal of such adverse information from the consumer's file maintained by any consumer reporting agency.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act, as amended by section 301, is further amended by inserting after the item relating to section 605E the following new item:

''605F. Financial abuse prevention.''.

SEC. 407. PROHIBITION OF CERTAIN FACTORS RELATED TO FEDERAL CREDIT RESTORATION OR REHABILITATION.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 502, is further amended—

(1) by adding at the end the following new section:

''§ 632. Prohibition of certain factors related to Federal credit restoration or rehabilitation

''(a) RESTRICTION ON CREDIT SCORING MODELS.—A credit scoring model may not—

''(1) take into consideration, in a manner adverse to a consumer's credit score or educational credit score, any information in a consumer report concerning the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

''(2) treat negatively, in a manner adverse to a consumer's credit score or educational credit score, the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

''(b) RESTRICTION ON PERSONS OBTAINING CONSUMER REPORTS.—A person who obtains a consumer report may not—

''(1) take into consideration, in a manner adverse to a consumer, any information in a consumer report concerning the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E; or

''(2) treat negatively the absence of payment history data for an existing account, whether the account is open or closed, where the absence of such information is the result of a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E.

''(c) ACCURACY AND COMPLETENESS.—If a person who furnishes information to a consumer reporting agency requests the removal of information from a consumer report or a consumer reporting agency removes information from a consumer report in compliance with the requirements under section 605C, 605D, or 605E, or such information was removed pursuant at section 605(a)(11), such report shall be deemed to satisfy the requirements for accuracy and completeness with respect to such information.

''(d) PROHIBITION RELATED TO ADVERSE ACTIONS AND RISK-BASED PRICING DECISIONS.—No person shall use information related to a consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E in connection with any determination of—

''(1) the consumer's eligibility or continued eligibility for an extension of credit;

''(2) the terms and conditions offered to a consumer regarding an extension of credit; or

''(3) an adverse action made for employment purposes.''; and

(2) in the table of contents for such Act, by inserting after the item relating to section 631 the following new item:

''632. Prohibition of certain factors related to Federal credit restoration or rehabilitation.''.

TITLE V—CLARITY IN CREDIT SCORE FORMATION

SEC. 501. CONSUMER BUREAU STUDY AND REPORT TO CONGRESS ON THE IMPACT OF NON-TRADITIONAL DATA.

(a) STUDY.—The Bureau of Consumer Financial Protection shall carry out a study to assess the impact (including the availability and affordability of credit and other noncredit decisions, the potential positive and negative impacts on consumer credit scores, and any unintended consequences) of using traditional modeling techniques or alternative modeling techniques to analyze non-traditional data from a consumer report and of including non-traditional data on consumer reports on the following:

(1) Consumers with no or minimal traditional credit history.

(2) Traditionally underserved communities and populations.

(3) Consumers residing in rural areas.

(4) Consumers residing in urban areas.

(5) Racial and ethnic minorities and women.

(6) Consumers across various income strata, particularly consumers earning less than 120 percent of the area median income (as defined by the Secretary of Housing and Urban Development).

(7) Immigrants, refugees, and non-permanent residents.

(8) Minority financial institutions (as defined under section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1463 note)) and community financial institutions.

(9) Consumers residing in federally assisted housing, including consumers receiving Federal rental subsidies.

(b) ADDITIONAL CONSIDERATIONS.—In assessing impacts under subsection (a), the Bureau of Consumer Financial Protection shall also consider impacts on—

(1) the privacy, security, and confidentiality of the financial, medical, and personally identifiable information of consumers;

(2) the control of consumers over how such information may or will be used or considered;

(3) the understanding of consumers of how such information may be used or considered and the ease with which a consumer may decide to restrict or prohibit such use or consideration of such information;

(4) potential discriminatory effects; and

(5) disparate outcomes the use or consideration of such information may cause.

(c) CONSIDERATION OF RECENT GOVERNMENT STUDIES.—In assessing impacts under subsection (a), the Bureau of Consumer Financial Protection shall also consider recent Government studies on alternative data, including—

(1) the report of the Bureau of Consumer Financial Protection titled ''CFPB Data Point: Becoming Credit Visible'' (published June 2017); and

(2) the report of the Comptroller General of the United States titled ''Financial Technology: Agencies Should Provide Clarification on Lenders' Use of Alternative Data'' (published December 2018).

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Bureau of Consumer Financial Protection shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations, including any recommendations for any legislative or regulatory changes, made in carrying out the study required under subsection (a).

(e) DEFINITIONS.—In this section:

(1) ALTERNATIVE MODELING TECHNIQUES.—The term ''alternative modeling techniques'' means statistical and mathematical techniques that are not traditional modeling techniques, including decision trees, random forests, artificial neutral networks, nearest neighbor, genetic programming, and boosting algorithms.

(2) CONSUMER REPORT.—The term ''consumer report'' has the meaning given such term in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a).

(3) NON-TRADITIONAL DATA.—The term ''non-traditional data'' means data related to telecommunications, utility payments, rent payments, remittances, wire transfers, data not otherwise regularly included in consumer reports issued by consumer reporting agencies described under section 603(p), and such other items as the Bureau of Consumer Financial Protection deems appropriate.

(4) TRADITIONAL MODELING TECHNIQUES.—The term ''traditional modeling techniques'' means statistical and mathematical techniques (including models, algorithms, linear and logistic regression methods, and their outputs) that are traditionally used in automated underwriting processes.

SEC. 502. CONSUMER BUREAU OVERSIGHT OF CREDIT SCORING MODELS.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 701, is further amended—

(1) by adding at the end the following new section:

''§ 631. Credit scoring models

''(a) VALIDATED CREDIT SCORING MODELS.—Not later than 1 year after the date of the enactment of this section, the Bureau shall (in consultation with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board) issue final regulations applicable to any person that

creates, maintains, utilizes, or purchases credit scoring models used in making credit decisions to establish standards for validating the accuracy and predictive value of all such credit scoring models, both before release for initial use and at regular intervals thereafter, for as long as such credit scoring models are made available for purchase or use by such person.

''(b) PROHIBITION.—At least once every 2 years, the Bureau shall conduct a review of credit scoring models to determine whether the use of any particular factors, or the weight or consideration given to certain factors by credit scoring models, is inappropriate, including if such factors do not enhance or contribute to the accuracy and predictive value of the models. Upon the conclusion of its review, the Bureau may prohibit a person described in subsection (a) from weighing, considering, or including certain factors in, or making available for purchase or use, certain credit scoring models or versions, as the Bureau determines appropriate.''; and

(2) in the table of contents for such Act, as amended by section 701, by adding after the item relating to section 630 the following new item:

''631. Credit scoring models.''.

TITLE VI—RESTRICTIONS ON CREDIT CHECKS FOR EMPLOYMENT DECISIONS

SEC. 601. PROHIBITION ON THE USE OF CREDIT INFORMATION FOR MOST EMPLOYMENT DECISIONS.

(a) IN GENERAL.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—

(1) in subsection (a)(3)(B), by inserting '', subject to the requirements of subsection (b)'' after ''purposes''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by amending the paragraph heading to read as follows: ''USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES'';

(ii) in subparagraph (A), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively (and conforming the margins accordingly);

(iii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively (and conforming the margins accordingly);

(iv) by striking the period at the end of clause (ii) (as so redesignated) and inserting ''; and'';

(v) by striking ''agency may furnish'' and inserting ''agency—

''(A) may furnish''; and

(vi) by adding at the end the following new subparagraph:

''(B) except as provided in paragraph (5), may not furnish a consumer report for employment purposes with respect to any consumer in which any information contained in the report bears on the consumer's creditworthiness, credit standing, or credit capacity.''; and

(B) by adding at the end the following new paragraphs:

''(5) REQUIREMENTS FOR CONSUMER REPORTS BEARING ON THE CONSUMER'S CREDITWORTHINESS, CREDIT STANDING, OR CREDIT CAPACITY.—

''(A) IN GENERAL.—A person may use a consumer report for employment purposes with respect to any consumer in which any information contained in the report bears on the consumer's creditworthiness, credit standing, or credit capacity only if—

''(i) either—

''(I) the person is required to obtain the report by a Federal, State, or local law or regulation; or

''(II) the information contained in the report is being used with respect to a national security investigation (as defined in paragraph (4)(D));

''(ii) none of the cost associated with obtaining the consumer report will be passed on to the consumer to whom the report relates; and

''(iii) the information contained in the consumer report will not be disclosed to any other person other than—

''(I) in an aggregate format that protects a consumer's personally identifiable information; or

''(II) as may be necessary to comply with any applicable Federal, State, or local equal employment opportunity law or regulation.

''(B) DISCLOSURES.—A person who procures, or causes to be procured, a consumer report described in subparagraph (A) for employment purposes shall, in the disclosure made pursuant to paragraph (2), include—

''(i) an explanation that a consumer report is being obtained for employment purposes;

''(ii) the reasons for obtaining such a report; and

''(iii) the citation to the applicable Federal, State, or local law or regulation described in subparagraph (A)(i)(I).

''(C) ADVERSE ACTIONS.—In using a consumer report described in subparagraph (A) for employment purposes and before taking an adverse action based in whole or in part on the report, the person intending to take such adverse action shall, in addition to the information described in paragraph (3), provide to the consumer to whom the report relates—

''(i) the name, address, and telephone number of the consumer reporting agency that furnished the report (including, for a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by such agency);

''(ii) the date on which the report was furnished; and

''(iii) the specific factors from the report upon which the adverse action (as defined in section 603(k)(1)(B)(ii)) was based.

''(D) NATIONAL SECURITY INVESTIGATIONS.—The requirements of paragraph (4) shall apply to a consumer report described under subparagraph (A).

''(E) NON-CIRCUMVENTION.—With respect to a consumer report in which any information contained in the report bears on the consumer's creditworthiness, credit standing, or credit capacity, if a person is prohibited from using the consumer report pursuant to subparagraph (A), such person may not, directly or indirectly, either orally or in writing, require, request, suggest, or cause any employee or prospective employee to submit such information to the person as a condition of employment.

''(F) NON-WAIVER.—A consumer may not waive the requirements of this paragraph with respect to a consumer report.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing information in a consumer report to which the law enforcement agency could otherwise obtain access.''.

(b) TECHNICAL AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by striking ''section 604(b)(4)(E)(i)'' each place such term appears and inserting ''section 604(b)(4)(D)(i)''.

(c) RULE OF CONSTRUCTION.—The amendments made by this Act may not be construed as limiting the ability of a person to use non-financial or non-credit related consumer report information.

TITLE VII—PROHIBITION ON MISLEADING AND UNFAIR CONSUMER REPORTING PRACTICES

SEC. 701. PROHIBITION ON AUTOMATIC RENEWALS FOR PROMOTIONAL CONSUMER REPORTING AND CREDIT SCORING PRODUCTS AND SERVICES.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) by adding at the end the following new section:

''§ 630. Promotional periods

''(a) TERMINATION NOTICE.—With respect to any product or service related to a consumer report or a credit score that is provided to a consumer under promotional terms, the seller or provider of such product or service shall provide clear and conspicuous notice to the consumer within a reasonable period of time before the promotional period ends.

''(b) OPT-IN.—With respect to any such product or service, the seller or provider may not continue to sell or provide such product or service to the consumer after the end of the promotional period unless the consumer specifically agrees at the end of the promotional period to continue receiving the product or service.''; and

(2) in the table of contents for such Act, by inserting after the item relating to section 629 the following new item:

''630. Promotional periods.''.

SEC. 702. PROHIBITION ON MISLEADING AND DECEPTIVE MARKETING RELATED TO THE PROVISION OF CONSUMER REPORTING AND CREDIT SCORING PRODUCTS AND SERVICES.

Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by section 206, is further amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''request, except'' and all that follows through ''consumer to whom'' and inserting ''request, unless the consumer to whom'';

(ii) by striking ''disclosure; and'' and inserting ''disclosure.''; and

(iii) by striking subparagraph (B); and

(B) in paragraph (6), by inserting ''or educational credit score (if applicable) under subsection (f) or section 612'' before the period at the end; and

(2) by adding at the end the following new subsection:

''(j) DISCLOSURES ON PRODUCTS AND SERVICES.—The Bureau, in consultation with the Federal Trade Commission, shall issue regulations within 18 months of the date of the enactment of this subsection requiring each consumer reporting agency and reseller to clearly and conspicuously disclose all material terms and conditions, including any fee and pricing information associated with any products or services offered, advertised, marketed, or sold to consumers by the agency or reseller. Such disclosures shall be made in all forms of communication to consumers and displayed prominently on the agency or reseller's website and all other locations where products or services are offered, advertised, marketed, or sold to consumers.''.

SEC. 703. PROHIBITION ON EXCESSIVE DIRECT-TO-CONSUMER SALES.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 407, is further amended—

(1) by adding after section 632 the following new section:

''§ 633. Fair and reasonable fees for products and services

''The Bureau may, with respect to any product or service offered by a consumer reporting agency to a consumer, set a fair and reasonable maximum fee that may be charged for such product or service, except where such maximum fee is otherwise provided under this title.''; and

(2) in the table of contents for such Act, by adding at the end the following new item:

''633. Fair and reasonable fees for products and services.''.

SEC. 704. FAIR ACCESS TO CONSUMER REPORTING AND CREDIT SCORING DISCLOSURES FOR NONNATIVE ENGLISH SPEAKERS AND THE VISUALLY AND HEARING IMPAIRED.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 903, is further amended—

(1) by adding at the end the following new section:

''§ 635. Fair access to information for nonnative English speakers and the visually and hearing impaired

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Bureau shall issue a rule to require consumer reporting agencies and persons who furnish information to consumer reporting agencies

under this title, to the maximum extent reasonably practicable—

''(1) to provide any information, disclosures, or other communication with consumers—

''(A) in each of the 10 most commonly spoken languages, other than English, in the United States, as determined by the Bureau of the Census on an ongoing basis; and

''(B) in formats accessible to individuals with hearing or vision impairments; and

''(2) to ensure that—

''(A) customer service representatives, including employees assigned to handle disputes or appeals under sections 611 and 623, who are available to assist consumers are highly familiar with the requirements of this title;

''(B) such representatives are available during regular business hours and outside of regular business hours, including evenings and weekends; and

''(C) at least one among such representatives is fluent in each of the 10 most commonly spoken languages, other than English, in the United States, as determined by the Bureau of the Census on an ongoing basis.

''(b) BUREAU CONSULTATION.—The Bureau shall consult with advocates for civil rights, consumer groups, community groups, and organizations that serve traditionally underserved communities and populations in issuing the rule described in subsection (a).''; and

(2) in the table of contents for such Act, by adding at the end the following new item:

''635. Fair access to information for nonnative English speakers and the visually and hearing impaired.''.

SEC. 705. COMPARISON SHOPPING FOR LOANS WITHOUT HARM TO CREDIT STANDING.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by section 401, is further amended by adding at the end the following new subsection:

''(h) ENCOURAGING COMPARISON SHOPPING FOR LOANS.—

''(1) IN GENERAL.—With respect to multiple enquiries of the same type made to a consumer reporting agency for a consumer report or credit score with respect to a consumer, any credit scoring model shall treat such enquiries as a single enquiry if the enquiries are made within a 120-day period.

''(2) DEFINITION OF ENQUIRIES OF THE SAME TYPE.—With respect to multiple enquiries made to a consumer reporting agency for a consumer report or credit score with respect to a consumer, such enquiries are 'of the same type' if the consumer reporting agency has reason to believe that the enquiries are all made for the purpose of determining the consumer's creditworthiness for an extension of credit described in one of the following:

''(A) A covered residential mortgage loan (as defined in section 605C).

''(B) A motor vehicle loan or lease (as described in section 609(i)).

''(C) A private education loan.

''(D) Any other consumer financial product or service, as determined by the Bureau.''.

SEC. 706. NATIONWIDE CONSUMER REPORTING AGENCIES REGISTRY.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 704, is further amended—

(1) by adding at the end the following new section:

''§ 636. Nationwide consumer reporting agencies registry

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Bureau shall establish and maintain a publicly accessible registry of consumer reporting agencies described in subsection (p) or (x) of section 603 (and any other agencies the Bureau determines provide similar services to such consumer reporting agencies) that includes current contact information of each such agency, including the Internet website address of the Internet website described under section 611(h), and information on how consumers can obtain their consumer report, credit scores, or educational credit scores (as applicable) by toll-free telephone, postal mail, or electronic means.

''(b) REGISTRY REQUIREMENTS.—The registry described in subsection (a) shall—

''(1) identify the largest agencies and the markets and demographics covered by such agencies; and

''(2) disclose, with respect to each agency, whether the agency is subject to the supervisory authority of the Bureau under this title.

''(c) INFORMATION UPDATES.—Each agency described under subsection (a) shall submit to the Bureau contact information for the registry, including any updates to such information. The Bureau shall—

''(1) independently verify information submitted by each agency; and

''(2) update the registry not less frequently than annually.''; and

(2) in the table of contents for such Act by adding at the end the following new item:

''636. Nationwide consumer reporting agencies registry.''.

SEC. 707. PROTECTION FOR CERTAIN CONSUMERS AFFECTED BY A SHUTDOWN.

(A) DEFINITION OF EMPLOYEE AFFECTED BY A SHUTDOWN.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by section 901, is further amended by adding at the end the following:

''(ee) EMPLOYEE AFFECTED BY A SHUTDOWN.—With respect to a shutdown, the term 'employee affected by a shutdown' means a consumer who—

''(1) is an employee of—

''(A) the Federal Government, and who is furloughed or excepted from a furlough during the shutdown;

''(B) the District of Columbia, and who is furloughed or excepted from a furlough during the shutdown;

''(C) the District of Columbia Courts, and who is furloughed or excepted from a furlough during the shutdown;

''(D) the Public Defender Service for the District of Columbia, and who is furloughed or excepted from a furlough during the shutdown; or

''(E) a Federal contractor (as defined under section 710 of title 41, United States Code) or other business, and who has experienced a substantial reduction in pay (directly or indirectly) due to the shutdown; and

(2) who—

''(A) is listed in the database established under section 63; or

''(B) has self-certified pursuant to such section.

''(ff) SHUTDOWN.—The term 'shutdown' means any period in which there is more than a 24-hour lapse in appropriations as a result of a failure to enact a regular appropriations bill or continuing resolution.

(gg) COVERED SHUTDOWN PERIOD.—The term 'covered shutdown period' means, with respect to a shutdown, the period beginning on the first day of the shutdown and ending on the date that is 90 days after the last day of the shutdown.''.

(b) EXCLUSION FOR EMPLOYEES AFFECTED BY A SHUTDOWN.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 809, is further amended by adding at the end the following:

''(18) Any adverse item of information with respect to an action or inaction taken during a covered shutdown period by an employee affected by a shutdown.''.

(c) AMENDMENT TO SUMMARY OF RIGHTS FOR EMPLOYEES AFFECTED BY A SHUTDOWN.—Secgtion 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

''(7) Information on the rights of an employee affected by a shutdown, including which consumers may be an employee affected by a shutdown and the process for a consumer to self-certify as an employee affected by a shutdown under section 637.''.

(d) DATABASE AND SELF-CERTIFICATION FOR EMPLOYEES AFFECTED BY A SHUTDOWN.—

(1) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 706, is further amended by adding at the end the following new section:

''§ 637. Database and self-certification for employees affected by a shutdown

''(a) DATABASE.—

''(1) IN GENERAL.—With respect to each shutdown, the consumer reporting agencies described in section 603(p) shall jointly establish a database that includes employees affected by the shutdown as reported pursuant to paragraph (2).

''(2) CONTENTS OF DATABASE.—

''(A) FURLOUGHED EMPLOYEES AND CONTRACTORS.—Each authority of the executive, legislative, or judicial branch of the Federal Government or District of Columbia shall provide to the consumer reporting agencies described in section 603(p) a list identifying—

''(i) employees of such authority that are furloughed, excepted from furlough, or not receiving pay because of a shutdown; and

''(ii) to the extent practicable, employees of contractors of such authority.

''(B) SELF-CERTIFIED CONSUMERS.—A consumer that self-certifies as an employee affected by a shutdown pursuant to subsection (b) shall be included in the database, unless the Bureau determines such consumer is not an employee affected by a shutdown.

''(3) ACCESS TO DATABASE.—The consumer reporting agencies described in section 603(p) shall make the database established under this subsection available to the Bureau, other consumer reporting agencies, furnishers of information to consumer reporting agencies, and users of consumer reports. A consumer reporting agency described in section 603(x) shall periodically access the database to confirm the accuracy of information such an agency has that identifies a consumer as an employee affected by a shutdown.

''(B) SELF-CERTIFICATION PROCESS.—A consumer shall be deemed to be an employee affected by a shutdown if such consumer self-certifies through—

''(1) the website established under subsection (c); or

''(2) a toll-free telephone number established by a consumer reporting agency.

''(c) WEBSITE.—The consumer reporting agencies described in section 603(p) shall jointly establish a website for a consumer to self-certify as an employee affected by a shutdown. Such website may not include any advertisement or other solicitation.

''(d) OPT-OUT.—The consumer reporting agencies described in section 603(p) shall provided a process through the website described under subsection (c) for consumers to opt-out of having their name included in the database established under this section.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Fair Credit Reporting Act, as amended by section 706, if further amended by adding at the end the following new item:

''637. Database and self-certification for employees affected by a shutdown.''.

(e) PROHIBITION ON ADVERSE ACTIONS AGAINST EMPLOYEES AFFECTED BY A SHUTDOWN.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following:

''(h) PROHIBITION ON ADVERSE ACTIONS AGAINST EMPLOYEES AFFECTED BY A SHUTDOWN.—If a user of a consumer report knows that a consumer is an employee affected by a shutdown, such user may not take an adverse action based on—

''(1) an adverse item of information contained in such report with respect to an action or inaction taken during a covered shutdown period by the employee; or

''(2) information on the consumer included in the database established under section 637.''.

(f) BUREAU REGULATIONS OR GUIDANCE.—Not later than 30 days after the date of the enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall issue rules or guidance, as appropriate, to carry out the requirements of this Act.

TITLE VIII—PROTECTIONS AGAINST IDENTITY THEFT, FRAUD, OR A RELATED CRIME

SEC. 801. IDENTITY THEFT REPORT DEFINITION.

Paragraph (4) of section 603(q) of the Fair Credit Reporting Act (15 U.S.C. 1681a(q)(4)) is amended to read as follows:

''(4) IDENTITY THEFT REPORT.—The term 'identity theft report' has the meaning given that term by rule of the Bureau, and means, at a minimum, a report—

''(A) that is a standardized affidavit that alleges that a consumer has been a victim of identity theft, fraud, or a related crime, or has been harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information, that was developed and made available by the Bureau; or

''(B)(i) that alleges an identity theft, fraud, or a related crime, or alleges harm from the unauthorized disclosure of the consumer's financial or personally identifiable information;

''(ii) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency (including the United States Postal Inspection Service), or such other government agency deemed appropriate by the Bureau; and

''(iii) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if the information in the report is actually false.''.

(b) RULEMAKING.—Not later than the end of the 2-year period beginning on the date of enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall issue final rules to carry out the amendment made by subsection (a).

SEC. 802. AMENDMENT TO PROTECTION FOR FILES AND CREDIT RECORDS OF PROTECTED CONSUMERS.

(a) AMENDMENT TO DEFINITION OF ''FILE''.—Section 603(g) of the Fair Credit Reporting Act (15 U.S.C. 1681a(g)) is amended by inserting '', except that such term excludes a record created pursuant to section 605A(j)'' after ''stored''.

(b) AMENDMENT TO PROTECTION FOR FILES AND CREDIT RECORDS.—Section 605A(j) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)(ii), by striking ''an incapacitated person or a protected person'' and inserting ''a person''; and

(B) by amending subparagraph (E) to read as follows:

''(E) The term 'security freeze'—

''(i) has the meaning given in subsection (i)(1)(C); and

''(ii) with respect to a protected consumer for whom the consumer reporting agency does not have a file, means a record that is subject to a security freeze that a consumer reporting agency is prohibited from disclosing to any person requesting the consumer report for the purpose of opening a new account involving the extension of credit.''; and

(2) in paragraph (4)(D), by striking ''a protected consumer or a protected consumer's representative under subparagraph (A)(i)'' and inserting ''a protected consumer described under subparagraph (A)(ii) or a protected consumer's representative''.

SEC. 803. ENHANCEMENT TO FRAUD ALERT PROTECTIONS.

Section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c–1) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking ''ONE-CALL'' and inserting ''ONE-YEAR'';

(B) in paragraph (1)—

(i) in the paragraph heading, by striking ''INITIAL ALERTS'' and inserting ''IN GENERAL'';

(ii) by inserting ''or has been or is about to be harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information,'' after ''identity theft,'';

(iii) in subparagraph (A)—

(I) by inserting ''(which period may be extended upon request of the consumer or such representative)'' after ''1 year''; and

(II) by striking ''and'' at the end;

(iv) in subparagraph (B)—

(I) by inserting ''1-year'' before ''fraud alert''; and

(II) by striking the period at the end and inserting ''; and''; and

(v) by adding at the end the following new subparagraph:

''(C) upon the expiration of the period described in subparagraph (A) or any extension of such period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 1 additional year if the information asserted in this paragraph remains applicable.''; and

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting ''AND CREDIT OR EDUCATIONAL CREDIT SCORES'' after ''REPORTS'';

(ii) by inserting ''1-year'' before ''fraud alert'';

(iii) in subparagraph (A), by inserting ''and credit score or educational credit score'' after ''file''; and

(iv) in subparagraph (B), by striking ''any request described in subparagraph (A)'' and inserting ''the consumer reporting agency includes the 1-year fraud alert in the file of a consumer'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''EXTENDED'' and inserting ''SEVEN-YEAR'';

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting ''(which period may be extended upon request of the consumer or such representative)'' after ''7-year period beginning on the date of such request'';

(ii) in subparagraph (B)—

(I) by striking ''the 5-year period beginning on the date of such request'' and inserting ''such 7-year period (including any extension of such period)''; and

(II) by striking ''and'' at the end;

(iii) in subparagraph (C)—

(I) by striking ''extended'' and inserting ''7-year''; and

(II) by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new subparagraph:

''(D) upon the expiration of such 7-year period or any extension of such period, and in response to a direct request by the consumer or such representative, continue the fraud alert for a period of 7 additional years if the consumer or such representative submits an updated identity theft report.''; and

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting ''AND CREDIT OR EDUCATIONAL CREDIT SCORES'' after ''REPORTS''; and

(ii) by amending subparagraph (A) to read as follows:

''(A) disclose to the consumer that the consumer may request a free copy of the file and credit score or educational credit score of the consumer pursuant to section 612(d) during each 12-month period beginning on the date on which the 7-year fraud alert was included in the file and ending on the date of the last day that the 7-year fraud alert applies to the consumer's file; and'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting ''or educational credit score'' after ''credit score'';

(B) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively (and conforming the margins accordingly);

(C) by striking ''Upon the direct request'' and inserting:

''(1) IN GENERAL.—Upon the direct request''; and

(D) by adding at the end the following new paragraph:

''(2) ACCESS TO FREE REPORTS AND CREDIT OR EDUCATIONAL CREDIT SCORES.—If a consumer reporting agency includes an active duty alert in the file of an active duty military consumer, the consumer reporting agency shall—

''(A) disclose to the active duty military consumer that the active duty military consumer may request a free copy of the file and credit score or educational credit score of the active duty military consumer pursuant to section 612(d), during each 12-month period beginning on the date that the activity duty military alert is requested and ending on the date of the last day the active duty alert applies to the file of the active duty military consumer; and

''(B) provide to the active duty military consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).'';

(4) by amending subsection (d) to read as follows:

''(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall include on the webpage required under subsection (i) policies and procedures to comply with this section, including policies and procedures—

''(1) that inform consumers of the availability of 1-year fraud alerts, 7-year fraud alerts, active duty alerts, and security freezes (as applicable);

''(2) that allow consumers to request 1-year fraud alerts, 7-year fraud alerts, and active duty alerts (as applicable) and to place, temporarily lift, or fully remove a security freeze in a simple and easy manner; and

''(3) for asserting in good faith a suspicion that the consumer has been or is about to become a victim of identity theft, fraud, or a related crime, or harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information, for a consumer seeking a 1-year fraud alert or security freeze.'';

(5) in subsection (e), by inserting ''1-year or 7-year'' before ''fraud alert'';

(6) in subsection (f), by striking ''or active duty alert'' and inserting ''active duty alert, or security freeze (as applicable)'';

(7) in subsection (g)—

(A) by inserting ''or has been harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information, or to inform such agency of the consumer's participation in credit restoration or rehabilitation under section 605C, 605D, or 605E,'' after ''identity theft,''; and

(B) by inserting ''or security freezes'' after ''request alerts'';

(8) in subsection (h)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking ''INITIAL'' and inserting ''1-YEAR''; and

(ii) by striking ''initial'' and inserting ''1-year'' each place such term appears; and

(B) in paragraph (2)—

(i) in the paragraph heading, by striking ''EXTENDED'' and inserting ''7-YEAR''; and

(ii) by striking ''extended'' and inserting ''7-year'' each place such term appears; and

(9) in subsection (i)(4)—

(A) by striking subparagraphs (E) and (I); and

(B) by redesignating subparagraphs (F), (G), (H), and (J) as subparagraphs (E), (F), (G), and (H), respectively.

SEC. 804. AMENDMENT TO SECURITY FREEZES FOR CONSUMER REPORTS.

(a) IN GENERAL.—Section 605A(i) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(i)) is amended—

(1) by amending the subsection heading to read as follows: ''SECURITY FREEZES FOR CONSUMER REPORTS'';

(2) in paragraph (3)(E), by striking ''Upon receiving'' and all that follows through ''subparagraph (C),'' and inserting ''Upon receiving a direct request from a consumer for a temporary removal of a security freeze, a consumer reporting agency shall'';

(3) by adding at the end the following:

''(7) RELATION TO STATE LAW.—This subsection does not modify or supersede the laws of any State relating to security freezes or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.''.

(b) AMENDMENT TO WEBPAGE REQUIREMENTS.—Section 605A(i)(6)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(i)(6)(A)) is amended—

(1) in clause (ii), by striking ''initial fraud alert'' and inserting ''1-year fraud alert'';

(2) in clause (iii), by striking ''extended fraud alert'' and inserting ''7-year fraud alert''; and

(3) in clause (iv), by striking ''fraud''.

(c) AMENDMENT TO EXCEPTIONS FOR CERTAIN PERSONS.—Section 605A(i)(4)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(i)(4)(A)) is amended to read as follows:

''(A) A person, or the person's subsidiary, affiliate, agent, subcontractor, or assignee with whom the consumer has, or prior to assignment had, an authorized account, contract, or debtor-creditor relationship for the purposes of reviewing the active account or collecting the financial obligation owed on the account, contract, or debt.''.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 805. CLARIFICATION OF INFORMATION TO BE INCLUDED WITH AGENCY DISCLOSURES.

Section 609(c)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681g(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking ''consumer reporting agency described in section 603(p)'' and inserting ''consumer reporting agency described in subsection (p) or (x) of section 603'';

(B) by striking ''the agency'' and inserting ''such an agency''; and

(C) by inserting ''and an Internet website address'' after ''hours''; and

(2) in subparagraph (E), by striking ''outdated under section 605 or'' and inserting ''outdated, required to be removed, or''.

SEC. 806. PROVIDES ACCESS TO FRAUD RECORDS FOR VICTIMS.

Section 609(e) of the Fair Credit Reporting Act (15 U.S.C. 1681g(e)) is amended—

(1) in paragraph (1)—

(A) by striking ''resulting from identity theft'';

(B) by striking ''claim of identity theft'' and inserting ''claim of fraudulent activity''; and

(C) by striking ''any transaction alleged to be a result of identity theft'' and inserting ''any fraudulent transaction'';

(2) in paragraph (2)(B)—

(A) by striking ''identity theft, at the election of the business entity'' and inserting ''fraudulent activity'';

(B) by amending clause (i) to read as follows:

''(i) a copy of an identity theft report; or''; and

(C) by amending clause (ii) to read as follows:

''(ii) an affidavit of fact that is acceptable to the business entity for that purpose.'';

(3) in paragraph (3), by striking ''identity theft'' and inserting ''fraudulent activity'';

(4) by striking paragraph (8) and redesignating paragraphs (9) through (13) as paragraphs (8) through (12), respectively; and

(5) in paragraph (10) (as so redesignated), by striking ''or a similar crime'' and inserting '', fraud, or a related crime''.

SEC. 807. REQUIRED BUREAU TO SET PROCEDURES FOR REPORTING IDENTITY THEFT, FRAUD, AND OTHER RELATED CRIME.

Section 621(f)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681s(f)(2)) is amended—

(1) in the paragraph heading, by striking ''MODEL FORM'' and inserting ''STANDARDIZED AFFIDAVIT'';

(2) by striking ''The Commission'' and inserting ''The Bureau'';

(3) by striking ''model form'' and inserting ''standardized affidavit'';

(4) by inserting after ''identity theft'' the following: '', fraud, or a related crime, or otherwise are harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information,''; and

(5) by striking ''fraud.'' and inserting ''identity theft, fraud, or other related crime. Such standardized affidavit and procedures shall not include a requirement that a consumer obtain a police report.''.

SEC. 808. ESTABLISHES THE RIGHT TO FREE CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES FOR CERTAIN CONSUMERS.

(a) ENFORCEMENT OF CREDIT MONITORING FOR SERVICEMEMBERS.—

(1) IN GENERAL.—Subsection (k) of section 605A (15 U.S.C. 1681c–1(a)) is amended by striking paragraph (4).

(2) EFFECTIVE DATE.—This subsection and the amendment made by this subsection shall take effect on the date of the enactment of this Act.

(b) FREE CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES FOR CERTAIN CONSUMERS.—Subsection (k) of section 605A (15 U.S.C. 1681c–1), is amended to read as follows:

''(k) CREDIT MONITORING AND IDENTITY THEFT PROTECTION SERVICES.—

''(1) IN GENERAL.—Upon the direct request of a consumer, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester (as described in section 1022.123 of title 12, Code of Federal Regulations) shall provide the consumer with credit monitoring and identity theft protection services not later than 1 business day after receiving such request sent by postal mail, toll-free telephone, or secure electronic means as established by the agency.

''(2) FEES.—

''(A) CLASSES OF CONSUMERS.—The Bureau may establish classes of consumers eligible to receive credit monitoring and identity theft protection services free of charge.

''(B) NO FEE.—A consumer reporting agency described in section 603(p) may not charge a consumer a fee to receive credit monitoring and identity theft protection services if the consumer or a representative of the consumer—

''(i) asserts in good faith a suspicion that the consumer has been or is about to become a victim of identity theft, fraud, or a related crime, or harmed by the unauthorized disclosure of the consumer's financial or personally identifiable information;

''(ii) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the request is made;

''(iii) is a recipient of public welfare assistance;

''(iv) is an active duty military consumer or a member of the National Guard (as defined in section 101(c) of title 10, United States Code);

''(v) is 65 years of age or older; or

''(vi) is a member of a class established by the Bureau under subparagraph (A).

''(3) BUREAU RULEMAKING.—The Bureau shall issue regulations—

''(A) to define the scope of credit monitoring and identity theft protection services required under this subsection; and

''(B) to set a fair and reasonable fee that a consumer reporting agency may charge a consumer (other than a consumer described under paragraph (2)(B)) for such credit monitoring and identity theft protection services.

''(4) RELATION TO STATE LAW.—This subsection does not modify or supersede of the laws of any State relating to credit monitoring and identity theft protection services or other similar actions, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this subsection, a term or provision of a State law is not inconsistent with the provisions of this subsection if the term or provision affords greater protection to the consumer than the protection provided under this subsection as determined by the Bureau.''.

(c) RULEMAKING.—Not later than the end of the 2-year period beginning on the date of enactment of this Act, the Director of the Bureau of Consumer Financial Protection shall issue final rules to carry out the amendment made by subsection (b).

SEC. 809. ENSURES REMOVAL OF INQUIRIES RESULTING FROM IDENTITY THEFT, FRAUD, OR OTHER RELATED CRIME FROM CONSUMER REPORTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 403, is further amended by adding at the end the following:

''(17) Information about inquiries made for a credit report based on requests that the consumer reporting agency verifies were initiated as the result of identity theft, fraud, or other related crime.''.

TITLE IX—MISCELLANEOUS

SEC. 901. DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by section 302, is further amended by adding at the end the following:

''(dd) DEFINITIONS RELATED TO DAYS.—

''(1) CALENDAR DAY; DAY.—The term 'calendar day' or 'day' means a calendar day, excluding any federally recognized holiday.

''(2) BUSINESS DAY.—The term 'business day' means a day between and including Monday to Friday, and excluding any federally recognized holiday.''.

SEC. 902. TECHNICAL CORRECTION RELATED TO RISK-BASED PRICING NOTICES.

Section 615(h)(8) of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) in subparagraph (A), by striking ''this section'' and inserting ''this subsection''; and

(2) in subparagraph (B), by striking ''This section'' and inserting ''This subsection''.

SEC. 903. FCRA FINDINGS AND PURPOSE; VOIDS CERTAIN CONTRACTS NOT IN THE PUBLIC INTEREST.

(a) FCRA FINDINGS AND PURPOSE.—Section 602 of the Fair Credit Reporting Act (15 U.S.C. 1681(a)) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) Many financial and non-financial decisions affecting consumers' lives depend upon fair, complete, and accurate credit reporting. Inaccurate and incomplete credit reports directly impair the efficiency of the financial system and undermine the integrity of using credit reports in other circumstances, and unfair credit reporting and credit scoring methods undermine the public confidence which is essential to the continued functioning of the financial services system and the provision of many other consumer products and services.''; and

(B) in paragraph (4), by inserting after ''agencies'' the following: '', furnishers, and credit scoring developers''; and

(2) in subsection (b)—

(A) by striking ''It is the purpose of this title to require'' and inserting the following: ''The purpose of this title is the following:

''(1) To require''; and

(B) by adding at the end the following:

''(2) To prohibit any practices and procedures with respect to credit reports and credit scores that are not in the public interest.''.

(b) VOIDING OF CERTAIN CONTRACTS NOT IN THE PUBLIC INTEREST.—

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 703, is further amended—

(1) by adding at the end the following new section:

''§ 634. Voiding of certain contracts not in the public interest

''(a) IN GENERAL.—Any provision contained in a contract that requires a person to not follow a provision of this title, that is against the public interest, or that otherwise circumvents the purposes of this title shall be null and void.

''(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as affecting other provisions of a contract that are not described under subsection (a).''; and

(2) in the table of contents for such Act, by inserting after the item relating to section 633 the following new item:

''634. Voiding of certain contracts not in the public interest.''.

The Acting CHAIR. No further amendment to the bill, as amended, shall be in order except those printed in part B of House Report 116–383. Each such further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1415

AMENDMENT NO. 1 OFFERED BY MR. DESAULNIER

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 116–383.

Mr. DESAULNIER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In title IX, add at the end the following:

SEC. 904. GAO STUDY ON THE USE OF CREDIT IN HOUSING DETERMINATIONS.

(a) STUDY.—The Comptroller General of the United States shall carry out a study of the use of consumer reports and credit scores in housing determinations to determine whether consumer reports or credit scores are being used as tools to perform the equivalent of banned red-lining.

(b) CONTENTS OF STUDY.—In carrying out the study required under subsection (a), the Comptroller General shall—

(1) examine both rental applications and mortgage applications; and

(2) include a demographic breakdown by race, gender, age, sexual orientation, city/suburban/rural, socioeconomic status, and any other demographic that the Comptroller General determines appropriate.

(c) REPORT.—The Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a).

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from California (Mr. DESAULNIER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. DESAULNIER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first state my admiration for the chair of the committee and Ms. PRESSLEY and everyone who has worked on this piece of legislation.

Mr. Chairman, credit scores and credit reports impact our daily lives, often in ways that we don't realize. They determine whether you can get a loan for a car that you need to get to work every day. They determine whether you can get a loan to buy a home or rent an apartment and how much interest you are going to pay on your home loan. They impact your insurance premium and your cell phone. In many States, these scores can even determine whether you get a job or not.

Unfortunately, even though they can have an enormous consequence on a person's life, these reports have very little oversight and can easily be inaccurate. Even when inaccuracies are spotted by consumers, the process for removing or correcting the mistakes is perhaps intentionally complicated and time consuming for the average American. A person with multiple jobs or no knowledge of credit reporting systems could very well give up—and often does—because the system is too complex for them.

This is not only a frustrating cycle but is also damaging to a person's financial reputation. We need to know more about how mistakes are made, who is responsible for fixing them, and what the impacts of those mistakes are on individual Americans' lives.

For too long, financial stability has been used as an excuse to keep lower income people out of traditionally wealthy and middle-class neighborhoods. This process, known as ''redlining,'' has been banned, but we continue to see the segregation of our neighborhoods along demographic and economic lines. Credit scores are being weaponized to exclude and separate communities.

To address this problem, we need reliable data. That is why this amendment would require the nonpartisan GAO to study how credit scores are used in housing decisions and examine whether individuals are being discriminated against in those decisions based on race, gender, age, sexual orientation, geographic location, socioeconomic status, and more.

Our society cannot continue to be broken into neighborhoods and communities based on the color of our skin or the amount of money in our bank accounts. This amendment will help us right this wrong and encourage housing decisions that are more equitable and fair for all Americans.

Mr. Chairman, I encourage my colleagues to join me in support of this amendment, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I claim the time in opposition, although I am not opposed to this amendment.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. Mr. Chairman, let me first say I oppose any disparate treatment of any person or population. That has no place in our society or our communities.

To that end, the data derived from this study would have been helpful to have had before we drafted a bill or we brought it to the House floor. I think it is important data for us to consider here as we make law.

The underlying bill removes important predictive information from consumer credit reports that helps lenders in assessing a borrower's ability to repay. Undermining this responsibility makes it riskier and more expensive for lenders to extend credit, which, ultimately, increases the cost for consumers. Now, that is problematic; but that is the bill, and the bill is problematic.

Buying a home is the biggest purchase that most Americans will make in their lifetime. And while the study is fine and will give us more data, it does nothing to make mortgages more affordable or available for those consumers who desire homeownership. The fact is the underlying bill will make mortgages even more expensive for consumers and consumer credit more expensive for those who seek it.

As I said, I am not opposed to this amendment, but more data is obviously always useful.

Mr. Chairman, I reserve the balance of my time.

Mr. DESAULNIER. Mr. Chairman, I yield myself such time as I may consume.

I agree, and as a former small business owner, I see the value of credit reports if done fairly and equitably. It should be balanced against the need for the lenders and the people who are seeking credit.

In my area in northern California, I hear stories over and over again about people who are working two jobs, and, through no mistake of their own, their credit report is not perfect. They don't have the time or the expertise to hire someone or to go back in and correct the problems. Often, problems can be left on even when they go through the process.

As somebody who was in the retail business, I see this as another example of customer service being put on the customer.

Twenty, 30 years ago, to the credit agencies and retailers—at least, in theory—customer service meant you reached out to the client and tried to figure out what the problem is. My experience and the experience I get anecdotally and the research that I see is that, particularly in difficult housing markets, the ability for people to get into the housing market either for

rental or for purchase is inhibited and is an obstacle to current reporting.

So, for this amendment, it is about getting more knowledge in a dynamic that only 10 years ago was almost disastrous to the economy when the housing implosion happened and is happening in many ways again as we, as researchers say, in urban areas resegregate based on ethnicity and demographics.

So, in order to get a better understanding, I think this amendment is a minimal standard of understanding how the situation has changed and how we can protect both the people who are the lenders and also the people who may not be lenders but are just trying to get to a point where they can rent an apartment or own a home.

Mr. Chairman, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I yield back the balance of my time.

Mr. DESAULNIER. Mr. Chairman, I urge my colleagues to support this commonsense amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. DESAULNIER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. SHALALA

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 116–383.

Ms. SHALALA. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In title IX, add at the end the following:

SEC. 904. GAO STUDY ON THE EFFECTS OF CREDIT SCORES IMPACTED BY A STUDENT BORROWER'S DEFAULTED OR DELINQUENT PRIVATE EDUCATION LOAN.

(a) STUDY.—The Comptroller General of the United States shall carry out a study on how credit scores impacted by a student borrower's defaulted or delinquent private education loan impacts applying for future loans, including information on the treatment of different demographic populations.

(b) REPORT.—The Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a).

The Acting CHAIR. Pursuant to House Resolution 811, the gentlewoman from Florida (Ms. SHALALA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. SHALALA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when you default on a student loan, you impact your credit score. Indeed, your credit score with all three credit agencies will most likely drop. That means that buying or renting a house, purchasing or leasing a vehicle, going back to school, or receiving competitive offers for credit cards will be very difficult.

Each year, more than 1 million student loan borrowers go into default. Nearly 40 percent of borrowers today are expected to default on their student loans by 2023.

We know that people most at risk of defaulting on their student loans are more likely to be Hispanic or African American. Defaulters are more likely to be older, to be Pell grant recipients, and to come from a nontraditional educational background when compared to borrowers who never default.

Research also tells us that people of color are more burdened by their educational debt. They have less parental wealth to draw on, as well as higher rates of unemployment.

By the time their loan falls into default, a typical borrower will see their score drop around 60 points, to an average of 550, which is considered very poor.

Entering default makes it harder to obtain future loans and prevents borrowers from receiving any additional Federal student aid until their loans return to good standing. Loan providers can then begin to garnish their wages, to impose restrictions on earnings, and to take their tax refund.

A student loan default stays on your credit report for 7 years—even if you pay off the loan in full. Having that notification on your credit report will make lenders nervous about working with you and hurt your economic stability for years.

Mr. Chairman, my amendment instructs the GAO to carry out a thorough review on how credit scores impacted by a student loan default can destroy people's lives. The amendment also asks the GAO to examine how multiple delinquencies on private student loans can hurt borrowers, including a demographic breakdown by race, gender, age, sexual orientation, and socioeconomic status.

Allowing student loans to enter delinquency can often have a negative effect on a borrower's credit score and in credit reports due to the fact that each loan is reported individually.

Mr. Chairman, Congress has a vested interest in ensuring that we expand the middle class, we grow the economy, and we protect consumers from irreversible financial damage to their credit. I believe that H.R. 3621, with the inclusion of this amendment, will establish parity for student borrowers and provide Congress with the necessary tools to craft meaningful legislation that will help avoid the tragedy of student loan default.

I thank Congresswoman KENDRA HORN for sharing my concerns on this issue and for cosponsoring this amendment.

Mr. Chairman, I urge my colleagues to support the amendment, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chairman, I claim the time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. Mr. Chairman, as I said in the previous statement, this study would have been helpful to have informed our analysis prior to drafting and debating this bill.

But there is a broader theme fundamental to this amendment and many of the amendments that will be offered later in this debate: My Democrat colleagues are not fully satisfied with their effort back in 2010 that nationalized the student loan program. They are coming back for the final 8 percent.

It was the Democrat Congress and Democrat President that nationalized the student loan marketplace, and now they want to do away with this small portion, the 8 percent of the marketplace, that is private student lending.

In fact, the private educational loans, while only 8 percent of the market, if you look at how they perform, they have a 98 percent repayment rate, which is far better than the nationalized 92 percent of the student loan marketplace. Meanwhile, Federal student loan default rates are in the double digits.

This is simply an attempt to gather data to be used to make it more difficult for private lenders to compete in the student loan market.

The fact is the underlying bill still removes important predictive information from consumer credit reports that helps lenders assess a borrower's ability to repay.

□ 1430

The underlying bill will weaken underwriting standards and make credit more expensive, especially for those who are on the margins, ultimately harming the very consumers we want to help.

As I said, I am not opposed to the amendment. More data is useful and good, and the GAO provides a wonderful resource for Congress in this data collection. So with that, as I said, more data is useful.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Florida (Ms. SHALALA).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. TIMMONS

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 116–383.

Mr. TIMMONS. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In title IX, add at the end the following:

SEC. 904. GAO STUDY ON CONSUMER REPORTING AGENCY COMPLIANCE WITH CONSENT ORDERS.

(a) STUDY.—The Comptroller General of the United States shall carry out a study of the compliance by consumer reporting agencies that compile and maintain files on consumers on a nationwide basis with consent orders, and the impact such compliance has on consumers.

(b) REPORT.—Not later than the end of the 180-day period beginning on the date of enactment of this Act, the Comptroller General

shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing all findings and determinations made in carrying out the study required under subsection (a).

(c) DEFINITIONS.—In this section, the terms ''consumer'' and ''consumer reporting agency that compiles and maintains files on consumers on a nationwide basis'' have the meaning given those terms, respectively, under section 603 of the Fair Credit Reporting Act.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from South Carolina (Mr. TIMMONS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. TIMMONS. Mr. Chair, my amendment is simple. It would require the GAO to carry out a study on the compliance of consumer reporting agencies with the underlying legislation proposed by my colleague from Massachusetts. It would also study what effect the compliance of reporting agencies would have on consumers.

This is important because if this bill were somehow able to become law, the results would be disastrous not only for reporting agencies but also for the average consumer.

The purpose of a credit score is to show an individual's creditworthiness. This bill would significantly water down the integrity of these credit scores.

If you are removing predictive data, if you are drastically shortening the amount of time adverse yet accurate information remains on a report, and if you remove medical debt from a report, then what exactly is the purpose of a credit score? What will a credit score be good for if this bill were to become law?

The bottom line is this bill would significantly weaken the process for determining creditworthiness and would enable individuals to obtain loans that they do not have the means to pay back.

It would also give the CFPB, an unaccountable government agency, control over private credit scoring models.

It is imperative that we know exactly how compliance with this bill would affect reporting agencies and, as a result, consumers.

Mr. Chair, I urge all of my colleagues to support this amendment, and I reserve the balance of my time.

Mr. LAWSON of Florida. Mr. Chair, I claim the time in opposition to the amendment, even though I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from Florida is recognized for 5 minutes.

There was no objection.

Mr. LAWSON of Florida. Mr. Chair, I urge my colleagues to support this amendment.

As we know, the three major credit rating agencies, Equifax, Experian, and TransUnion, retain credit profile information on more than 200 million Americans.

The underlying bill represents a comprehensive reform of our Nation's credit reporting system. This amendment would direct the GAO to review just how well the credit reporting agencies are complying with these new requirements and how that affects consumers.

We know that the credit reporting agencies have not been complying with the law today. For example, the Fair Credit Reporting Act contains provisions requiring credit reports to be accurate, but it is estimated that more than 42 million Americans have inaccurate credit reports.

The credit reporting agencies need to do better by consumers, and if they did, perhaps consumer reporting problems would not consistently rank in the top three of consumer complaints to the Consumer Financial Protection Bureau.

Mr. Chair, I support this study. If adopted, I hope that Mr. TIMMONS would also support the underlying bill.

Mr. Chair, I reserve the balance of my time.

Mr. TIMMONS. Mr. Chair, I would inquire how much time is remaining.

The Acting CHAIR. The gentleman from South Carolina has 3½ minutes remaining.

Mr. TIMMONS. Mr. Chair, I yield 1½ minutes to the gentleman from North Carolina (Mr. MCHENRY), the ranking member.

Mr. MCHENRY. Mr. Chair, I thank my colleague from South Carolina, the second newest member of the Financial Services Committee, for offering this good, thoughtful amendment.

This amendment will give us a better picture of the consent orders that impact credit reporting agencies, including the CFPB's consent orders related to marketing and sale of services.

This is a good amendment in what is otherwise a bad bill.

Often in legislating, we try to make bad bills less bad or not-so-good bills good, but I am grateful that Mr. TIMMONS offered this amendment and grateful for his participation representing upstate South Carolina and being a sound policymaker.

Mr. Chair, I ask my colleagues to support the amendment.

Mr. LAWSON of Florida. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, in closing, I urge all of my colleagues to support this amendment, and I yield back the balance of my time.

Mr. TIMMONS. Mr. Chair, in closing, I would again urge all of my colleagues to support this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from South Carolina (Mr. TIMMONS).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. CLAY

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 116–383.

Mr. CLAY. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 44, line 18, before the period insert ''(increased by $1,000,000)''.

In title IX, add at the end the following:

SEC. 904. POSITIVE CREDIT REPORTING PERMITTED.

(a) IN GENERAL.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2), as amended by section 103, is further amended by adding at the end the following new subsection:

''(g) FULL-FILE CREDIT REPORTING.—

''(1) IN GENERAL.—Subject to the requirements of paragraphs (2) through (5) and notwithstanding any other provision of law, a person that has obtained the written authorization of a consumer may furnish to a consumer reporting agency information relating to the performance of a consumer in making payments—

''(A) under a lease agreement with respect to a dwelling; or

''(B) pursuant to a contract for services provided by a utility or telecommunication firm.

''(2) LIMITATIONS.—

''(A) WITHHELD PAYMENTS DUE TO HABITABILITY OR SANITARY CONDITIONS.—No person shall furnish or threaten to furnish negative information relating to the performance of a consumer in making payments under a lease agreement with respect to a dwelling if the consumer has withheld payment pursuant to—

''(i) any right or remedy for breach of the warranty of habitability; or

''(ii) any violation of a Federal, State, or municipal law, code, or regulation regarding sanitary conditions.

''(B) SERVICES PROVIDED BY A UTILITY OR TELECOMMUNICATION FIRM.—Information about a consumer's usage of any services provided by a utility or telecommunication firm may be furnished to a consumer reporting agency only to the extent that such information relates to—

''(i) payment by the consumer for such services; or

''(ii) other terms of the provision of such services to the consumer, including any deposit, discount, or conditions for interruption or termination of such services.

''(3) PAYMENT PLAN.—A utility or telecommunication firm may not report payment information to a consumer reporting agency with respect to an outstanding balance of a consumer as late if—

''(A) the utility or telecommunication firm and the consumer have entered into a payment plan (including a deferred payment agreement, an arrearage management program, or a debt forgiveness program) with respect to such outstanding balance; and

''(B) the consumer is meeting the obligations of the payment plan, as determined by the utility or telecommunication firm.

''(4) PROHIBITION ON USE BY DEBT COLLECTORS.—A debt collector (as defined in section 803(6) of the Fair Debt Collection Practices Act) may not use the information described in paragraph (1).

''(5) RELATION TO STATE LAW.—Notwithstanding section 625, this subsection shall not preempt any law of a State with respect to furnishing to a consumer reporting agency information relating to the performance of a consumer in making payments pursuant to a lease agreement with respect to a dwelling or a contract for a utility or telecommunications service. For purposes of this paragraph, the term 'law of a State' shall include all laws, decisions, rules, regulations,

or other State action having the effect of law, as issued by a State, any political subdivisions thereof, or any agency or instrumentality of either the State or a political subdivision thereof.

''(6) UTILITY OR TELECOMMUNICATION FIRM DEFINED.—In this subsection, the term 'utility or telecommunication firm'—

''(A) means an entity that provides utility services to the public through pipe, wire, landline, wireless, cable, or other connected facilities, or radio, electronic, or similar transmission (including the extension of such facilities); and

''(B) includes an entity that provides natural gas or electric service to consumers.''.

(b) GAO STUDY AND REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the impact on consumers of furnishing information pursuant to subsection (g) of section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2), as added by subsection (a).

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Missouri (Mr. CLAY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Missouri.

Mr. CLAY. Mr. Chair, I rise in support of my amendment.

This amendment would clarify the law for reporting certain positive consumer credit information to the credit reporting agencies and seeks to expand access to credit through the use of alternative data.

In addition, this amendment addresses several concerns identified by consumer advocates, including removing a provision that would have preempted State laws and ensuring consumers provide written consent if their utility or rental history is to be considered.

Also, the bill requires a 2-year study and report from GAO on the impact of furnishing additional information, which will help us gather data to further ensure that American consumers have the tools they need to obtain and improve credit and that policymakers can continue to work to make improvements to the law.

The way in which alternative data is used is important. One of the most important factors is consumer choice. If the use of alternative data is truly voluntary—that is, consumers make knowing and voluntary decisions to allow the use of the data, and the information is used only for that limited purpose and in ways that consumers would expect—then it is much more likely to be helpful.

I am pleased to have the support of the National Consumer Law Center on this important provision. They support it because, unlike prior versions, it would permit the reporting of utility and rental payment information only when the consumer has provided written authorization, that is, only when the consumer chooses to.

In the critical area of lending, it is estimated that the use of alternative data by lenders could expand access to credit to over 40 million consumers in the United States. Imagine the economic activity that would generate.

As internet access increases and data becomes more readily available, marketplace or fintech leaders mostly rely on online platforms and frequently underwrite loans using alternative data. Despite fintech lending serving a small part of the consumer lending market, it continues to grow at a rapid rate. That is why it is critical that consumers have as much control over the use of their data as possible. In fact, according to the GAO, since 2013, personal loans provided by fintech lenders tripled to about $17.7 billion by 2017.

Alternative data used in credit scoring could potentially increase accuracy, visibility, and scorability in credit reporting by including additional information beyond that which is conventionally used by loan officers.

I would add that my amendment does not preempt State consumer protection laws protecting the privacy of utility customers and hindering States from regulating tenant screening agencies. This is important to the regulation and monitoring of traditional and fintech firms. At times, States have a better view than the Federal regulators.

Lastly, the two largest populations of credit invisibles and unscorables are either African American or Hispanic millennials who live in lower income neighborhoods like those that I represent in north St. Louis. These populations are especially vulnerable to predatory lenders and other unscrupulous lenders.

Mr. Chair, it is time we try this new method to help millions of Americans improve their credit scores.

Mr. Chair, I reserve the balance of my time.

Mr. HILL of Arkansas. Mr. Chair, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Arkansas is recognized for 5 minutes.

Mr. HILL of Arkansas. Mr. Chair, it doesn't bring me pleasure to claim the time in opposition to my good friend from Missouri, and he knows how much I appreciate the work he has done on this matter.

The amendment is certainly, Mr. Chair, well intentioned, but as currently drafted, I would argue that this language does more harm to consumers than good.

Let me step back and say that, unrelated to Mr. CLAY's amendment, I introduced H.R. 4231, the Credit Access and Inclusion Act, which expands consumers' access to credit by allowing them to use their rent, utility, and telecom payments to help build their credit scores. In other words, it would help more people have access to credit with those additional facts.

As my friend noted, and as we have heard in our Task Force on Financial Technology and in the Financial Services Committee's Consumer Protection and Financial Institutions Subcommittee, additional data allows millions more to have access to the credit they need.

This bill, the Credit Access and Inclusion Act, was introduced in the 114th Congress and the 115th Congress by my friend, former Representative Keith Ellison of Minnesota. I joined in the last Congress with him and cosponsored it, and in the 116th, I have introduced it.

So I find it interesting that in the last two Congresses, my bill was the appropriate way to handle additional data, but in this Congress, it is not.

Mr. Chair, I would also raise the point that there is a bipartisan Senate companion to my bill introduced by Senators SCOTT and MANCHIN.

□ 1445

Furthermore, the language I have introduced was offered as an amendment to this bill by GWEN MOORE but was ruled out of order in the Rules Committee.

As I have outlined, H.R. 4231, my legislation, has strong, bipartisan, bicameral support. I believe Mr. CLAY is trying to do something similar with the text he has offered today. But in my view, his version makes it more difficult for consumers to establish a credit history which is underscored by the lack of bipartisan and bicameral support for this text.

As drafted, Mr. CLAY's amendment creates a new barrier because it requires written consumer authorization before furnishing a customer's payment information to a consumer reporting agency for a lease, for a utility, or for a telecom service. This is in stark contrast with how the current credit reporting methodology works.

This amendment requires consumers to opt-in to have their rental, utility, or telecommunication payments included in their credit reports. I believe that is a defective viewpoint.

Mr. Chair, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, just in quick response to my friend from Arkansas, some consumer advocates have expressed concern that consumers may be evaluated as higher risk for using alternative data than they would be with no reports at all; so we worked on this language to try to find the sweet spot.

The Acting CHAIR. The time of the gentleman has expired.

Mr. HILL of Arkansas. Mr. Chair, may I ask how much time remains.

The Acting CHAIR. The gentleman from Arkansas has 2 minutes remaining.

Mr. HILL of Arkansas. Mr. Chair, let me thank Mr. CLAY for his work on this. Requiring an opt-in and excluding data that would not allow lenders to get the full picture of a consumer's financial health, in my view, makes it more difficult for consumers to access credit because practically no rental, utility, or telecommunication companies would actually furnish the Expanded Access program.

Therein lies the conundrum here. Therein lies the challenge with Mr. CLAY's approach compared to my approach. But it doesn't stop me from

thanking my friend for his work on this. I know it is an area that we share an interest in. I know that this area is keenly important to him.

However, this amendment, as it is currently drafted, I cannot support it.

I urge my colleagues to vote ''no.'' But I hope my colleague would be open to working together to finding a better solution that truly benefits consumers, expands additional data, and allows people to offer these products because it will qualify more credit-needy Americans for badly needed credit.

I think in the case of Mr. CLAY's approach, ''perfect is the enemy of the good.'' I think we ought to work within the system that we have and make it better. That is why I support my measure I have introduced in the House and oppose this amendment.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Missouri (Mr. CLAY).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. CLAY. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Missouri will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. STEIL

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 116–383.

Mr. STEIL. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 163, beginning on line 5, strike ''(i) either—'' and all that follows through ''(I) the person'' and insert ''(i)(I) the person'' (and adjust the margin of the subsequent subclause accordingly).

Page 163, line 8, strike ''or'' at the end.

Page 163, line 12, add ''or'' at the end.

Page 163, after line 12, insert the following:

''(III) the report is necessary for a background check or related investigation of financial information that is required by a Federal, State, or local law or regulation;''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Wisconsin (Mr. STEIL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. STEIL. Mr. Chair, I rise to urge support for my amendment to H.R. 3621.

Mr. Chair, I want to start by thanking Chairwoman WATERS, Ranking Member MCHENRY, Representative LAWSON, and Representative MCADAMS for working with me to reach this commonsense agreement on this amendment.

As my colleagues know, for certain jobs, employers are required by law to review the financial history of prospective employees. For instance, in some States, insurance commissioners require companies to review an agent's financial condition and history prior to granting a license.

This is a consumer protection issue. It is important to ensure that the professionals who consumers trust to carry out major financial transactions on their behalf aren't themselves in financial distress.

This amendment clarifies that an employer may use a credit report when it is necessary for a financial background check, required by Federal, State, or local laws or regulations.

By clarifying this issue, my amendment ensures that the underlying bill does not conflict with important consumer protection laws that are already on the books. Failing to address this conflict will be bad for workers and consumers.

I again urge support on this amendment, and I reserve the balance of my time.

Mr. LAWSON of Florida. Mr. Chair, I claim the time in opposition to the amendment, although I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. LAWSON of Florida. Mr. Chair, I rise to support Mr. STEIL's and Mr. MCADAMS' amendment.

Mr. Chairman, this bipartisan amendment would add clarity to title VI of the bill that addresses restricting the use of credit reports in most employment decisions.

As we know, in many cases, the use of credit reports unnecessarily exposes consumers' financial information and potentially puts existing employees and job applicants in an uncomfortable position of having to discuss private matters such as: divorce; domestic abuse; or health and genetic conditions in explaining their impaired credit history.

While financial events that cause diverse information to land on the credit profile do not determine alone what value the person can bring to an employer, there are some circumstances where financial background is more relevant to a job.

While this bill already contains exemptions that address this, such as exemptions when the credit file is needed for national security, or is otherwise required for Federal or State or local laws or regulations, we were able to draft a bipartisan compromise that adds a tailored exemption if Federal, State, or local laws or regulations require an investigation for financial information of an employee.

This compromise strikes the right balance of commonsense solutions without creating loopholes that would hurt consumers.

I want to thank Representative STEIL and Representative MCADAMS for their work on this, and hope Mr. STEIL will vote for the underlying bill if the amendment is adopted.

Mr. Chair, I yield back the balance of my time.

Mr. STEIL. Mr. Chair, I appreciate my colleague's remarks regarding this amendment. I think this is the commonsense solution that we need to make sure that employers are protected as they are looking for their employees as it relates to this.

I appreciate the gentleman's work and Mr. MCADAMS' work on this amendment, and I urge my colleagues' support.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIL).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. GOTTHEIMER

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 116–383.

Mr. GOTTHEIMER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In title V, add at the end the following:

SEC. 503. REVIEW OF CHANGES TO CREDIT SCORING MODELS.

Section 631 of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as added by section 502, is amended by adding at the end the following:

''(c) REVIEW OF CHANGES TO CREDIT SCORING MODELS.—With respect to a person that creates credit scoring models used in making credit decisions, if such person creates a new credit scoring model (including a revision to an existing scoring model) that would, when compared to previous credit scoring models created by such person, lower the credit scores of a class of consumers, the Director of the Bureau may review such new credit scoring model and, if the Director determines that such new credit scoring model is inappropriate (including, with respect to a revision to an existing scoring model, if such revision does not enhance or contribute to the accuracy and predictive value of the existing scoring model), the Director may prohibit such new credit scoring model.''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from New Jersey (Mr. GOTTHEIMER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. GOTTHEIMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of my amendment to H.R. 3621, the Comprehensive CREDIT Act of 2020.

According to my good friend from New Jersey Tom Bracken, who is the president and CEO of the New Jersey Chamber of Commerce: ''Everyone needs to be evaluated properly regarding their ability to secure credit.'' Individuals want to be confident that the due diligence involved in evaluating their credit worthiness is accurate.

Now, here is the problem that my amendment is trying to solve, a problem Americans face every single day. There are a handful of credit bureaus

in the United States that are deciding Americans' fate in a black box on whether they should get access to credit or not—whether they should get, or how much they should be paying for a car, a house, a loan to send their children to college, a rate on a credit card, and how much they can receive for a small business loan.

Houdini himself couldn't figure out how these scores are calculated. And here is the rub: Each of these companies comes up with a magic number, your credit score.

Last week, The New York Times reported that one of the controllers of that black box is developing a new credit model to decide our financial fates in, and that this new model may lower the scores for 40 million Americans.

Yes, this new model—just to say this again—may lower the scores for 40 million Americans who work every single day to keep their credit scores high. These are hardworking people in our communities who are going to be penalized after spending years doing everything right. But they are going to change those scores based on external factors that have nothing to do with them and how hard they have worked to keep their credit scores up.

Not only does your score determine your ability to obtain credit at a fair price, but they are also used by countless sectors, from insurance companies to landlords and even employers, to decide if you are welcome or not.

These changes could harm 40 million Americans, again, even though they have done absolutely nothing wrong. These changes could cost people thousands of dollars in higher-priced credit, or worse yet, result in the denial of a job, apartment rental, or ability to buy a home.

I am focusing on working to expand credit access to the millions of credit-invisible Americans, consumers who have no credit history.

Now, many of these new creditworthy consumers are going to wake up and find that the rules they thought they were playing by are changing because of economic forecasts that they have no control over.

My amendment is simple. It will allow for a level of oversight to review any potential model changes to ensure that they are not being done arbitrarily, if the changes decrease the credit scores for Americans. If it is found that there is no justification for the changes, the models can be blocked from deployment.

The review is not mandatory, giving flexibility for the market to work on their own approach to make sure that Americans who work hard and care about their credit health are not being whacked for doing the right thing.

This amendment is an important safeguard for consumers who all too often are left holding the bag when it comes to their credit scores.

I am proud to offer this amendment today that will protect consumers and make sure that no one's credit scores get docked arbitrarily after they have played by the rules.

I urge my colleagues to support this commonsense amendment. Again, this is not about being able to price for risk and make sure that we don't set the right scores and rates. This is about arbitrarily changing someone's score simply because there is macro outside externalities that have nothing to do with them or their behavior, and suddenly, they wake up one day and their credit scores are really changing their lives and having a significant impact on them.

Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chair, this amendment epitomizes what is wrong with the approach taken by the majority in this bill.

This amendment is about socializing credit score models and putting that power within the government, and clearance from the government in order to use different models.

In short, this amendment says, if you don't like the outcome of something, we will just have the CFPB lean in and deem it inappropriate.

That is what it is about.

This amendment directs the CFPB to review the reasons a class of consumers may have been negatively impacted by a newly introduced credit scoring model and determine whether the model is inappropriate.

I would say to my colleague, this amendment appears to be duplicative of the authority already given, already vested in the CFPB's organizational statute and in the underlying bill for the CFPB to intervene in private-sector decisions.

I would also further ask the House: Do we really want to give a government agency veto power over new credit models?

□ 1500

As I raised in our committee markup, as I raised in our hearing back in February, and as I have raised on this day here on the House floor and many times before, I have concerns about the consumer credit reporting agencies and their structure. I think there is a way for us to have a bipartisan consensus.

While I respect my colleague on the other side of the aisle, and there are times when we can work together, this is not one of those times. I see this is as further vesting governmental power in something that the private sector should be deciding in the private-sector allocation of risk, rather than socializing credit models.

Mr. Chairman, I urge a ''no'' vote, and I reserve the balance of my time.

Mr. GOTTHEIMER. Mr. Chairman, I want to thank the ranking member for his leadership. We work together quite often, and I know we disagree on this one.

The challenge I have here is you have just a couple companies that control, through this black box, all this information that no one can figure out how they get your score and how the score is developed. It is completely arbitrary.

People are working really hard to try to get their scores up so they can get a loan, so they can get a mortgage, and just to make their lives better. They work really hard at it. It just doesn't make any sense to me to have this arbitrary change in the number that no one can understand. Again, you just have a few people sitting in a room somewhere making this decision.

The idea would be to make sure there is some sort of review, so that if a few people just go make this decision without any real competition—I am a probusiness Democrat—they go off and make this decision in this room somewhere, it really can affect every aspect of your life. Suddenly your credit goes down, and now they want to bring your credit down again, these credit scores down and change the number, with nothing to do with your own behavior at all. It is just that they decided this on externalities.

So I agree with the ranking member that we should always make sure that we are circumspect here and we allow the markets to play out. But in this case, this isn't the market with competition.

In this case it is arbitrary, and there should be review. In the review you can have a perfect review and in the end it would be that, okay, this makes sense. I can see why we need to make these changes. I understand why we need to do this. And, of course, price for the risk here, and that makes sense.

But in this case you can't just be someone in the back room making a decision and then you wake up one day, you have done nothing wrong and they had a huge impact on how much you are paying for your credit, how much you are paying to take out a loan, if you own a small business to take out a loan, or get a lease for a car, things that affect your life every single day. That is really what we are talking about here.

So I appreciate the ranking member's concerns, but I think in this case it is very focused. It is to really ensure that you don't have an oligopoly with all control.

Mr. Chairman, I yield back the balance of my time.

Mr. MCHENRY. Mr. Chairman, as I said, this amendment is about socializing credit modeling. My colleague raised this issue that a few people in a room are making a decision that will affect millions of Americans.

I think the consumer credit reporting agencies are deeply problematic. There is not real competition. When you have three controlling this marketplace with very little competition, the varied

entries being massive because it is heavily regulated by government, a set of laws that act on them and regulations that act on them, that is problematic. It is an oligopoly.

I have said that I think there are reasonable reforms that we could achieve in a bipartisan way through this House that could make it into law. This bill is dead on arrival in the Senate, and the President said he is going to veto it.

This is not a bipartisan undertaking. In fact, instead of having that private-sector, behind-closed-doors group making this decision, you vest one government bureau with somebody under statute who is appointed, who cannot be fired, who can show up drunk at work basically, and the President doesn't have the authority to fire them under the statute, and you are going to give the CFPB this power and have a single director make this decision on the allocation of credit for all Americans?

So private sector, a small group making a decision and you have three choices for your credit scores. Or do you want to have one government bureaucrat make all the decisions for the American people?

So this is a fundamental debate, not just here on the House floor but on wider politics about how you allocate capital in the United States: Is it the government that should do this? Or should it be individual action and individual citizens who have that control?

I fundamentally believe it is the individual citizens not government bureaucrats behind closed doors who are making those decisions. We need real innovation for consumer credit scores and consumer credit modeling. We need big data involved, we need machine learning, and we need to make sure that we root out inherent bias within the data sources. I think there are enormous things we can do. But investing in a government bureau that is unaccountable and a single director that is making these decisions is a worse outcome than what is already not that great.

So I appreciate my colleague raising this issue because we both agree this is a problem. We just haven't been able to come to terms with how to do it.

So while I oppose this amendment, I certainly respect my colleague from New Jersey as a serious policy maker, but on this we just don't agree.

Mr. GOTTHEIMER. Will the gentleman yield?

Mr. MCHENRY. I yield to the gentleman from New Jersey.

Mr. GOTTHEIMER. Mr. Chairman, it sounds like we are finding a place of common ground here where we certainly need more competition in this space, and the fact that the gentleman said big data and other externalities being brought to bear, I am looking forward to working with him on that because I think certainly we have got to make this better.

Mr. MCHENRY. Mr. Chairman, as I said, my colleague is a serious policy maker. At times we can come together, at other times we see things differently, and I think that is okay.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from New Jersey (Mr. GOTTHEIMER).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. KILDEE

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 116–383.

Mr. KILDEE. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 134, line 25, before ''in an area'' insert ''or works''.

Page 135, beginning on line 5, strike ''the date that is 3 months after such date.'' and insert the following: ''the date that is the earlier of—

''(i) 6 months after the date on which the major disaster or emergency was declared; and

''(ii) the later of—

''(I) 3 months after the date on which the major disaster or emergency was declared; and

''(II) the date that the Director of the Bureau, in consultation with the Administrator of the Federal Emergency Management Agency, determines is the date on which substantially all provision of assistance by the Federal Emergency Management Agency under such major disaster or emergency declaration has concluded.''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Michigan (Mr. KILDEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. KILDEE. Mr. Chairman, I thank Congresswoman AYANNA PRESSLEY and Chairwoman MAXINE WATERS for their leadership on this legislation and for advocating for consumers.

The credit reporting system in this country is not consumer focused and is in need of a major overhaul.

Consumer complaints about their credit reports are one of the most frequently reported issues submitted to the Consumer Financial Protection Bureau. Over 40 million Americans have errors in their credit reports. In fact, just last week one credit reporting company announced it was changing the credit scoring model which could arbitrarily reduce credit scores for millions of Americans without allowing any public input whatsoever.

Having poor credit makes it harder and more expensive to borrow money, buy a home, or own a car. It also negatively impacts a person's ability to be approved for an apartment, get car insurance, and even to get a job. The lack of transparency and accuracy in the credit reporting system leaves borrowers at the mercy of credit reporting agencies, which is holding American families back.

The Comprehensive CREDIT Act is a much-needed, comprehensive overhaul of the credit reporting system. This bill would enhance consumer rights and increase the accountability and transparency of consumer reporting agencies.

Specifically, the bill would help rehabilitate credit for student borrowers with private loans. Right now Americans are experiencing a student loan debt crisis. Student loan debt is now at $1.3 trillion. This is the largest source of debt in the U.S., even more than credit card debt. This is delaying young people from making critical investments in their own future like buying a house, starting a family, or saving for their own children to go to college.

The Comprehensive CREDIT Act would combat this by requiring a credit reporting agency to remove a delinquent or defaulted private education loan on a borrower's consumer report if they have shown a good history of loan repayment for 10 consecutive months after the delinquency or default. If a borrower has demonstrated a good faith effort to resume loan repayment after a delinquency or default, then they should not be punished with a lowered credit score.

I also support the underlying legislation very strongly, and I have introduced an amendment that I think would strengthen the bill even further. My amendment would provide a 6-month grace period to preserve the credit score of borrowers living and working in an area impacted by a major disaster or emergency if there is an interruption in their 10 consecutive months of loan repayment.

In 2016 in my own hometown, the people of Flint experienced a drinking water emergency. I know many of you have heard me discuss this on many occasions. During that period people were not able to access safe drinking water, families were saddled with unexpected medical bills, parents and children poisoned by their water experienced adverse health conditions, and homeowners and businesses were negatively affected.

People whose livelihoods were damaged by this crisis or any other natural disaster or emergency should not be penalized for failing to pay back student loans until they get back on their feet. When experiencing a crisis, borrowers should be provided flexibility to repay their loans when they are able to without affecting their underlying credit score. This relief would be provided to people living and working in an area experiencing a major disaster or emergency.

My amendment and the underlying bill will help decrease the burden of student loans on Americans and improve their credit scores, especially those people living in areas impacted by emergencies or natural disasters.

Mr. Chairman, I ask my colleagues to join me in supporting this amendment, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chairman, I want to commend my colleague, Mr. KILDEE, for representing his constituents' interests. The people in this Chamber know of his commitment to his neighbors in Flint, and he has been quite vocal and passionate about their plight. He has brought that debate here to the House floor in a very proper and good way, so he should be commended for that, I believe.

We know that when you have a local concern like this you want to fix it. So many times when you have something that is applicable at the national level you learn from local circumstances.

So let's look at the underlying bill first in order to describe this. What this bill says to the 8 percent of the student loan marketplace—8 percent—this has nothing to do with the 92 percent that is controlled by the Federal Government. That is an Education and Labor Committee of jurisdiction and is not a part of this bill.

Eight percent of the student loan marketplace is private. Private lenders are engaged, and those terms are already a part of a set of Federal laws and State laws. The underlying bill ignores the contractual terms of that, ignores the fact that you have in that 8 percent of the student loan marketplace only 2 percent who are not paying or in default. Ninety-eight percent are paying. So my friend is trying to fix a problem on 2 percent. The Federal student loan portfolio has double-digit default rates and folks not paying.

So we have a big issue here. It is a big societal issue. It is impacting two generations of Americans, and it is because Congress has passed bad law that is saddling and enabling a generation of students to saddle themselves with debt that they cannot repay. It is unconscionable what we have done.

So what that bill does is say to that 8 percent of the marketplace: If you are behind—8 percent of the marketplace, 2 percent not paying or in default. So let's go to that 2 percent.

We are saying: If you have been in default for months, perhaps years, and you make payments, and over 10 months you make nine of 10—why? Well, I couldn't determine during committee debate why it was nine. Why not 11 of 12? Why not 5 of 6? Why not three of seven? Nine of ten, because that was the determination we have gotten. And now we have an amendment that says, nine of ten? Well, maybe a little different.

So I get the expression of resolve for fixing people's problems, but this bill is really bad. It is a really fundamentally flawed bill when you have these arbitrary timelines like this and it says you sort of pay and you sort of pay for a period of time and then all that fact that you didn't pay is just waved away.

So that is the absurdity of the underlying bill.

I say to Mr. KILDEE, I am sorry to take up the debate to talk about how flawed that is. The gentleman's expression, though, about natural disasters is a reasonable one. If we can do a standalone bill on that then I think we would have not a dissenting vote on the House floor. So I would love to work with the gentleman on that, but I cannot support this amendment, and I have to oppose it.

Mr. Chairman, I reserve the balance of my time.

□ 1515

Mr. KILDEE. Mr. Chairman, I appreciate my friend's expression. We served together my first 6 years on the Financial Services Committee. And if the event occurs that we need to pursue this relief in another fashion, I would look to forward to working with him. But it is my hope that we can act on this within this legislation.

I do disagree with his assessment of the underlying legislation, but that is fine. That is the nature of this place, that we have disagreements sometimes over issues like this.

In this case, where we do have a chance, as the gentleman described, to deal with a specific set of circumstances affecting specific individuals, we ought to take that opportunity and do something.

I didn't know when I was elected that the community that I represent was going to face the crisis that it did, and nobody serving in this body knows whether or not their community, in the next month or year or 10 years, will face a similar circumstance.

So let's take the opportunity we have, as small as it may be in terms of the way the gentleman describes it. It is not small when it happens to you, and it is not small when it happens to your community.

So I appreciate the gentleman's willingness to work with me in the future on this. I ask my colleagues to join me in supporting this amendment, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chair, may I inquire how much time remains.

The Acting CHAIR. The gentleman from North Carolina has 1 minute remaining.

Mr. MCHENRY. Mr. Chair, I would say to the gentleman from Michigan that I commend him for offering this amendment; I commend him for the respect for this institution and how he interacts legislatively. He can be passionate about representing his constituents, his point of view, his legislation, his amendments, but, at the same time, where we can come to terms, we do that on a regular basis.

So it is not all dysfunction here; it is not all dismay; it is not all disaster; it is not all acrimony. There are those of us who can still talk amidst a broken and divided government that we have.

So I commend him for offering this amendment, and, again, as I said, I am opposed to the amendment.

Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. KING OF IOWA

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 116–383.

Mr. KING of Iowa. Mr. Chairman, I have an amendment at the desk made in order by the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 135, beginning on line 3, strike ''date on which the major disaster or emergency was declared'' and insert ''initial date of the incident period of the major disaster or emergency''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Iowa (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. Mr. Chairman, this amendment, in reading through the bill, brings something forward that we have experienced a number of times in the natural disasters that have poured forth and the flooding in my district over the 17 years-plus that I have represented the folks in the Missouri River bottom, in particular; but, also, it affects everybody else around the country.

In reading the base bill, it says that the 3-month grace period that is granted for a student loan begins on the date that the declaration of disaster is issued, and often that declaration of disaster is issued sometimes months after the disaster is over.

The crisis is also over for the former student who was paying their student loans and having difficulty meeting those obligations because they have been the victim of a natural disaster, whether it be a hurricane, whether it be a flood, whether it be a tornado or some other type of natural disaster. This morning, I saw there was an earthquake down across from Florida, across the Caribbean.

What this amendment does is move that date back to the initial date of the disaster itself rather than the date that it was declared a disaster. The language in the current bill says, ''date on which the major disaster or emergency was declared.'' Instead, the language becomes, ''initial date of the incident period of the major disaster or emergency.''

Mr. Chairman, I would point out some of these dates along the way that stand out to me.

There was flooding in North Dakota that began on October 9 of 2019 and continued until October 26 of 2019. That disaster was declared not then, but declared on January 21, 2020. That would have been the first date that the grace period would kick in under this language. I ask that that grace period kick in immediately. Although the announcement will come from FEMA and wouldn't be on the first day of the disaster, that is the first day that they feel the financial stress.

I will go through a number of these.

The courageous people of Hornick, Iowa, bounced back from that flood as strongly as anybody I have seen, but that began on March 12, and the disaster declaration came March 23. So they lost some of those days.

And I look down to Tropical Storm Michael in North Carolina, and that disaster began October 10 to 12, 2018, and 4 months later, January 31, 2019, was the declaration.

So the credit of these people who are trying diligently to pay their student loans is damaged unless they have this grace period that begins when the stress period begins, and that is what my amendment does, Mr. Chairman, and I reserve the balance of my time.

Mr. LAWSON of Florida. Mr. Chairman, I claim the time in opposition, although I am not opposed.

The Acting CHAIR. Without objection, the gentleman from Florida is recognized for 5 minutes.

There was no objection.

Mr. LAWSON of Florida. Mr. Chairman, this amendment will allow for more time for private student loan borrowers in the process of rehabilitating their loans to repay their loans when also impacted by a geographical disaster or emergency.

By changing the language from when a disaster or emergency is federally declared to when the actual disaster began, private student loan borrowers will have more time outside of when an emergency is officially federally declared to explain and have their situation taken into consideration for hardship.

For example, it was a shame that it took President Trump more than 2 weeks to declare the major disaster declaration after Puerto Rico received a string of earthquakes beginning December 28. Consumers should not be penalized by politics when they are in dire need for help.

As climate change and other disasters continue to have devastating consequences across this country, students who are demonstrating that they can rehabilitate their loans and improve their credit scores should not have to additionally suffer because extreme events like these cause hardships that would reasonably interrupt a payment.

It can take years for communities to recover from natural and other disasters, and this amendment further allows victims of these disasters the time that they deserve, a fair chance to improve their credit scores and future credit opportunities.

I support this amendment, and I reserve the balance of my time.

Mr. KING of Iowa. Mr. Chairman, may I inquire as to how much time remains.

The Acting CHAIR. The gentleman from Iowa has 2¼ minutes remaining. The gentleman from Florida has 3 minutes remaining.

Mr. KING of Iowa. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the gentleman's remarks with regard to this amendment.

I would point out that we have 435 Members in this United States Congress, and it was envisioned by our Founding Fathers that we would get ideas from every one of those districts. And they also recognized that we are all human, and no matter how diligent we might be, no matter how much we care about the people we are helping, sometimes things just kind of slide along, look good on the surface, and we are busy. So that is why we all want to look at this, and that is why I have the privilege to be here to offer this amendment.

Having gone through natural disaster after natural disaster after natural disaster, suffered from them myself—in fact, the 1993 flood is probably why I am in Congress today, because I realized the degree of risk was not proportional to the potential for profit if you are under water.

So I want to help those students who want to keep their credit in line, and I appreciate the support across Congress to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. LAWSON of Florida. Mr. Chair, I yield myself the balance of my time.

I urge all of my colleagues to support this amendment, and I yield back the balance of my time.

Mr. KING of Iowa. Mr. Chairman, I appreciate the gentleman's remarks again, and I would just point out that, of this list of disasters that we have and the delays we have in declaring these disasters, there is one here on April 29.

A disaster declaration was declared for severe storms and flooding within the Sac and Fox Tribe in Mississippi and Iowa—and I actually live in Sac County, although that is not part of that reservation—with an incident period spanning March 13 till April 1. However, the disaster declaration was April 29, so there was a month-and-a-half delay in that one.

I have other examples of this, Mr. Chairman, but I think that we have made our point here today, and I appreciate the attendance and diligence of the Members on both sides of the aisle.

Mr. Chairman, I urge adoption of my amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

AMENDMENT NO. 9 OFFERED BY MS. SÁNCHEZ

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part B of House Report 116–383.

Ms. SÁNCHEZ. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 44, line 18, before the period insert ''(increased by $1,000,000)''.

Page 182, line 8, strike ''military'' and insert ''uniformed''.

Page 182, line 10, strike ''military'' and insert ''uniformed''.

Page 182, line 11, strike ''military'' and insert ''uniformed''.

Page 182, line 14, strike ''military'' and insert ''uniformed''.

Page 182, beginning on line 16, strike ''military''.

Page 182, line 19, strike ''military'' and insert ''uniformed''.

Page 182, line 21, strike ''military'' and insert ''uniformed''.

Page 192, line 7, strike ''military'' and insert ''uniformed''.

In title IX, add at the end the following:

SEC. 904. PROTECTIONS FOR ACTIVE DUTY UNIFORMED CONSUMER.

(a) DEFINITIONS.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended—

(1) in subsection (q), by amending paragraph (1) to read as follows:

''(1) ACTIVE DUTY UNIFORMED CONSUMER.—The term 'active duty uniformed consumer' means a consumer who is—

''(A) in military service and on active service (as defined in section 101(d) of title 10, United States Code); or

''(B) a member of the uniformed services (as defined in section 101(a) of title 10, United States Code) who is not a member of the armed forces and is on active service.''; and

(2) by inserting after subsection (dd) (as added by section 901) the following:

''(ee) EXTENDED ACTIVE DUTY UNIFORMED CONSUMER.—The term 'extended active duty uniformed consumer' means an active duty uniformed consumer that is deployed—

''(1) in a combat zone (as defined under section 112(c) of the Internal Revenue Code of 1986); or

''(2) aboard a United States vessel.''.

(b) PROHIBITION ON INCLUDING CERTAIN ADVERSE INFORMATION IN CONSUMER REPORTS.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended—

(1) in subsection (a), as amended by section 809, by adding at the end the following:

''(18) Any item of adverse information about a consumer, if the action or inaction that gave rise to the item occurred while the consumer was an extended active duty uniformed consumer.''; and

(2) by inserting after subsection (h) (as added by section 705) the following:

''(i) NOTICE OF STATUS AS AN EXTENDED ACTIVE DUTY UNIFORMED CONSUMER.—With respect to an item of adverse information about a consumer, if the action or inaction that gave rise to the item occurred while the consumer was an extended active duty uniformed consumer, the consumer may provide appropriate proof, including official orders, to a consumer reporting agency that the consumer was an extended active duty uniformed consumer at the time such action or inaction occurred. The consumer reporting agency shall promptly delete that item of adverse information from the file of the consumer and notify the consumer and the furnisher of the information of the deletion.''.

(c) COMMUNICATIONS BETWEEN THE CONSUMER AND CONSUMER REPORTING AGENCIES.—Section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c-1) is amended—

(1) in subsection (c), as amended by section 803, by adding at the end the following:

''(2) NEGATIVE INFORMATION ALERT.—Any time a consumer reporting agency receives an item of adverse information about a consumer, if the consumer has provided appropriate proof that the consumer is an extended active duty uniformed consumer, the consumer reporting agency shall promptly notify the consumer—

''(A) that the agency has received such item of adverse information, along with a description of the item; and

''(B) the method by which the consumer can dispute the validity of the item.

''(3) CONTACT INFORMATION FOR EXTENDED ACTIVE DUTY UNIFORMED CONSUMERS.—With respect to any consumer that has provided appropriate proof to a consumer reporting agency that the consumer is an extended active duty uniformed consumer, if the consumer provides the consumer reporting agency with separate contact information to be used when communicating with the consumer while the consumer is an extended active duty uniformed consumer, the consumer reporting agency shall use such contact information for all communications while the consumer is an extended active duty uniformed consumer.''; and

(2) in subsection (e), by amending paragraph (3) to read as follows:

''(3) subparagraphs (A) and (B) of subsection (c)(1), in the case of a referral under subsection (c)(1)(C).''.

(d) CONFORMING AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by striking ''active duty military'' each place such term appears and inserting ''active duty uniformed''.

(e) SENSE OF CONGRESS.—It is the sense of Congress that any person making use of a consumer report containing an item of adverse information should, if the action or inaction that gave rise to the item occurred while the consumer was an extended active duty uniformed consumer, take such fact into account when evaluating the creditworthiness of the consumer.

The Acting CHAIR. Pursuant to House Resolution 811, the gentlewoman from California (Ms. SÁNCHEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. SÁNCHEZ. Mr. Chairman, I yield myself such time as I may consume.

I am proud to vote today to protect consumers and improve our credit reporting system.

I thank Chairwoman WATERS and Representative PRESSLEY for their hard work on this important legislative package, and I want to thank the Financial Services staff who have worked diligently behind the scenes.

I would also like to thank the National Military Family Association, the National Consumer Law Center, and the Consumer Federation of America for their support of my amendment.

My amendment today, which is based upon a bill that I have long championed, is focused on our friends and family in uniform who are serving abroad. Specifically, my amendment would allow servicemembers the ability to dispute negative information, or dings, on their credit report that occurred while they were serving in a combat zone or aboard a U.S. vessel.

Those who are serving in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the Public Health Service would benefit from this amendment.

This amendment isn't without guardrails. A credit reporting agency must be notified that the servicemember was on extended Active Duty at the time the hit to the credit report occurred. The credit reporting agency would then be required to conduct a review of the information and delete any negative information from the credit report should certain requirements be met.

We must acknowledge the realities of deployment in today's technological world. Life goes on at home while our military members are deployed. Sometimes a bill payment is missed when an electronic payment agreement lapses, a credit card on file expires, or an unauthorized credit card is issued.

This amendment allows for credit reports that more accurately reflect the full picture. This idea was born out of the incredible courage of two parents who faced an overwhelming grief that I hope never to experience.

John Kelsall, president of my local chamber of commerce at the time, and his wife, Teri, a long-time southern California nonprofit leader, lost their son. Lieutenant Commander Jonas Kelsall, a proud Navy SEAL, was killed in Afghanistan in 2011. In order to keep their son's legacy alive, the Kelsalls founded a nonprofit veterans business incubator to assist U.S. military veterans upon their return to civilian life.

Whenever I was back home, John and Teri would catch me up on the latest challenges and success stories from their organization. However, one hurdle kept coming up over and over and over again for these veteran would-be entrepreneurs.

□ 1530

Terri and John shared stories of servicemembers and veterans who had trouble obtaining loans to help start their businesses. Why? Because while they were deployed, they missed payments, and this negatively affected their credit scores, even though, oftentimes, the delays were out of their control.

I knew something had to be done. That is why, in 2014, I joined our colleague, Congressman LAMBORN of Colorado, in introducing legislation to address this problem. I have been proud to strengthen the text of this bill over the years with the help of the National Consumer Law Center and military family support groups. Our country continues to ask so much from our men and women who serve in uniform. They deserve peace of mind during their Active Duty deployments.

Mr. Chair, I urge all of my colleagues to support this amendment and the underlying legislative package, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I claim the time in opposition, but I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. Mr. Chairman, this amendment introduces to the Fair Credit Reporting Act a definition for Active Duty uniformed consumer and establishes a special regime for the treatment of such consumers.

It is understandable and commendable that we want to help the men and women who serve our country. They are involved in unique circumstances, not just here domestically but globally.

While I support the need for our servicemen and women broadly, this amendment does not remedy the overarching issues in the underlying bill. There are some deeply problematic pieces to this bill, as I have said in this overall debate. Because of that, I would offer to work with the gentlewoman on this as a standalone measure that I believe we could pass with a wide majority through the House. Who knows in the Senate, given these days. But I believe that it would even have the opportunity for the President's signature, which is important for our process here in lawmaking.

Unfortunately, the overall bill, even if this is added, won't see the light of day because the Senate is not going to take it up, and the President has already said he is going to veto it.

Mr. Chair, I would offer to the gentlewoman to work with her on a standalone measure to achieve the very thing of her amendment. I am happy to yield if she has a response or if she is interested in working in a bipartisan way for a standalone measure to achieve this.

I yield to the gentlewoman from California.

Ms. SÁNCHEZ. Mr. Chair, I thank my colleague for the offer to work on this as a standalone bill. It was originally a standalone bill. It is being offered as an amendment to the bill. I understand that you have reservations on the underlying bill.

My hope is that it will pass as an amendment and that the underlying bill will pass. But should that bill not be successful in being taken up in the Senate, I would surely love to work with my colleague on a standalone bill that will accomplish this very important goal of helping our men and women who serve in uniform make their lives just a little bit easier.

We ask a lot of them as a Nation, and so I think helping them when they are on Active Duty and sometimes are late or miss payments is a worthwhile endeavor.

Mr. MCHENRY. Mr. Chair, reclaiming my time, I appreciate the offer and would be happy to work with the gentlewoman on that standalone measure.

Mr. Chair, I yield back the balance of my time.

Ms. SÁNCHEZ. Mr. Chair, again, I want to say that I have attempted to pass this bill as a standalone bill. I believe that it is properly included in the underlying bill, which I think is an excellent piece of legislation.

Our country asks a lot of our men and women, and while you are on Active Duty, the last thing that you should worry about is late payments or missed payments, oftentimes because you are in far-flung regions of the world when it is not like you can just mail a letter back to make sure that your payment gets in on time.

Mr. Chair, I believe very strongly in this amendment. I ask my colleagues to support the amendment and support the underlying bill. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. SÁNCHEZ).

The amendment was agreed to.

AMENDMENT NO. 10 OFFERED BY MR. COHEN

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part B of House Report 116–383.

Mr. COHEN. Mr. Chair, as I have an amendment at the desk, I stand and seek recognition.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 137, line 16, insert before the period the following: ''as soon as possible, but in no case later than 5 days after such completion''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. Mr. Chair, this amendment creates a specific time period for credit reporting agencies to change a consumer's credit report after consecutive payments have been made on certain private education loans.

This bill offers credit rehabilitation for distressed private education loan borrowers. My amendment simply states that once a consumer has made the consecutive payments outlined in the standardized reporting codes, the consumer reporting agency must update a consumer's report immediately or within 5 business days, at the most.

Credit reports and credit scores are tied to so many important factors in consumers' lives. They determine interest rates on mortgages, bank loans, and credit cards, and deposits for rent. They can even lower insurance premiums.

Every day counts. Consumers shouldn't have to wait in limbo, not knowing exactly when a charge is going to be removed from their credit report, especially if they have been making consecutive payments and meet the criteria to have it removed.

This amendment is supported by the National Consumer Law Center, which stated that ''putting a specific timeframe for compliance is a good idea. It provides clarity on what action needs to be taken for both compliance and enforcement purposes. It also ensures borrowers will get the benefits of the law promptly.''

Mr. Chair, I thank Chairwoman WATERS, Mr. LAWSON, Congresswoman PRESSLEY, and the Financial Services Committee staff—especially Yana Miles, Glen Sears, Avy Malik, Clement Abonyi, and Lisa Peto—for all of their hard work on this issue. I encourage my colleagues to support this amendment.

Mr. Chair, I yield 1 minute to the gentlewoman from Massachusetts (Ms. PRESSLEY), the sponsor of this comprehensive bill.

Ms. PRESSLEY. Mr. Chair, my bill, the Comprehensive CREDIT Act, will greatly improve a fundamentally flawed credit reporting system, providing much-needed relief for families across the country.

It works to protect consumers from unfair and misleading credit reporting practices, affirming the rights of all Americans to an equitable and transparent credit reporting process. My bill takes the burden off consumers while holding credit reporting agencies accountable and restoring fairness to the system.

I thank my colleague from Tennessee (Mr. COHEN) for offering this amendment. CRAs are all too quick to add penalties and negative marks to credit reports, but the same urgency never seems to be applied to improving those reports.

Once borrowers take the steps prescribed in this bill to improve their credit reports, they deserve to have the reports updated to reflect that in a reasonable timeframe.

Credit scores are meant to be predictive, and the best predictor of future behavior is their most recent behavior. Our bill takes the burden off of consumers while holding debt reporting agencies accountable and restoring fairness to the system. This amendment would further strengthen our bill by ensuring that these changes happen in a timely manner.

Mr. Chair, I am proud to support this amendment, and I urge my colleagues to do the same.

Mr. MCHENRY. Mr. Chair, I claim time in opposition to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chair, it sounds like a bit of a broken record, but this amendment does two things.

First, it continues to undermine the ability of private lenders to negotiate terms of their loans with student borrowers. Second, it continues the bill's theme of removing negative information, even if accurate, from credit scores and credit reports.

Now, it was the decision by a Democratic House, Democratic Senate, Democratic President that has saddled a generation—in fact, two generations—of students with this massive, federally administered student loan program.

This bill only deals with the 8 percent that is in the private marketplace. It is trying to put bad rules there to take that final 8 percent, when in reality we should be focused on the 92 percent that the Federal Government has saddled, the 92 percent that is the Federal student loan program.

They want to remove predictive information, which will lead to students taking on even more debt. We should be addressing the underlying factors that are causing the crisis, like the rising costs of higher education, the lack of underwriting standards in the Federal program.

Instead, we are going to weaken the standards in the private market, the part of the marketplace that is actually working really, really well, where you only have default rates or folks who are not paying at 2 percent or less. In the Federal program, we have double digits that are in the same sort of category.

The underlying bill requires consumer reporting agencies to develop and use reporting codes to reflect a borrower's participation in the credit rehabilitation program. The amendment would require these codes to be removed no later than 5 days after the consumer makes nine payments in 10 months.

Why nine payments in 10 months? As I said the last time I spoke about this, because that kind of feels right, apparently. That is kind of what we determined in the committee debate. Not that people have paid every month but, you know, they have paid 9 out of 10 months.

What we are talking about here is not science in the underlying bill. In fact, the 5-day period, I am not sure how the sponsor came up with that. But this amendment expedites the requirement of a flawed program within the bill, so not making a titanic change, a major change to the bill. But it is a bad program that he is basically speeding up, in my view—a bad program, in my view—that he is obviously trying to enact more quickly.

Under this amendment, there will be no record of the borrower ever being delinquent or having been in default.

Let's go back to the private loan market statistics. Again, 2 percent in the private student loan marketplace is in default of their loans, compared to the Federal student loan program, which has a default rate of 18 percent.

Fannie and Freddie didn't have a default rate that high, and they got nationalized as a result of the financial crisis and sparked a financial crisis. We have 18 percent that is in default in the student loan program.

Why are we messing with this small program when we should be taking on this bigger issue that is one that is a major struggle? There are a lot of ideas on both sides of the aisle for how we deal with that.

We shouldn't be weakening underwriting standards, either in the Federal program or in the private program. We should have strong underwriting standards. We should not lead to more financial instability but a fairly structured and smart marketplace.

Mr. Chair, I oppose this amendment and, again, reiterate that this amendment is about speeding up a bad program that is deeply flawed in the underlying bill, and that is why I oppose it.

Mr. Chair, I reserve the balance of my time.

Mr. COHEN. Mr. Chair, first of all, Federal student loans already have the option to rehabilitate the loan after the borrower has made 9 out of 10 consecutive on-time payments.

H.R. 3621 simply brings private student loans in line with Federal student loans, so 9 out of 10. It is not science like climate change is, but it is pretty good, and it is based on current law for Federal student loans.

Secondly, I would submit, don't try to make the perfect the enemy of the good. I was here for 8 years in the minority, and I don't remember the majority bringing any bills to help consumers on any student loans, any loans, or anything at all. Fortunately, we are in the majority, and we are bringing you bills to help consumers, and this bill helps people with student loans.

Mr. Chair, I once again reiterate that I urge people to support this, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, may I inquire how much time is remaining on both sides.

The Acting CHAIR. The gentleman from North Carolina has 30 seconds remaining. The gentleman from Tennessee has 1¼ minutes.

Mr. MCHENRY. Mr. Chair, I am prepared to close, and I reserve the balance of my time.

Mr. COHEN. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, simply, for the college students, for the debtors, for fairness, for justice, pass this bill, pass this amendment. I yield back the balance of my time.

Mr. MCHENRY. Mr. Chair, I yield myself the balance of my time.

Mr. Chair, this is more aggressive than the bad Federal student loan program. If you are a delinquent borrower, you cannot access this like-kind program. What this amendment is saying is, if you are a delinquent borrower, you can get in the front of the line and get that waived away as if you had been paying the whole time. This is a bad idea.

If you want to address the problem, let's address the cost of college, not doing this gamesmanship of trying to socialize on the back end through credit scores and credit reporting agencies.

Mr. Chair, I oppose the amendment, and I yield back the balance of my time.

□ 1545

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. COHEN

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part B of House Report 116–383.

Mr. COHEN. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 162, line 15, after ''purposes'' insert the following: '', including for the purpose of denying employment,''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. Mr. Chair, first, I would just like to make some closing remarks on the previous argument. The gentleman is right. We need to make college more affordable, and I passed a bill in Tennessee when I was a senator, a referendum on the ballot that has raised over $5 billion to send kids to college in Tennessee, $5 billion free scholarship money. So, yes, I don't talk the talk, I walk the walk.

Mr. Chairman, my amendment makes it unequivocally clear that credit reports should not be used as the sole reason for the denial of employment.

This amendment is for the countless constituents who have contacted my office with disturbing stories of being denied a job opportunity because of their credit report.

This amendment is for the many people in this country who are currently in a vicious cycle: To pay down their debt, they need a job, but they can't get hired because of their debt.

According to the Society for Human Resource Management, 43 percent of employers are conducting pre-employment credit checks, claiming that a potential employee's credit score is somehow an accurate predictor of future job performance. Nobody says that. Like nobody says that you have to have a crime in an impeachment article to impeach a President. Abuse of power is sufficient.

Yet, there has not been any proof that a credit report or a credit score can predict how an employee will perform, none whatsoever.

A credit report doesn't tell the whole story. Maybe a person had a long stretch of unemployment. Maybe they unexpectedly had a health or a medical crisis.

This practice has had a disproportionate impact on some of our most vulnerable, credit-challenged citizens; recent college grads, divorced women, low-income families, senior citizens, and minorities.

Everyone deserves the opportunity to begin rebuilding their credit history by obtaining employment. We should be doing everything in our power to help people find jobs during these tough economic times, not hinder them.

Making sure credit reports are not used as a means for denial of employment has been a very important issue to me and my office, and I have introduced a bill, the Equal Employment for All Act, every Congress for the last 11 years.

Unfortunately, in eight of those years, we were in the minority and so we couldn't get a hearing. But now, Mr. LAWSON has brought a bill, which I appreciate greatly, and he is on the committee and this issue is now before us.

What matters most is that important issues like this are addressed and fixed by Congress and get to the floor for a vote. I would like to thank Mr. LAWSON.

I would also like to go back and thank my former staffer, Michael Fulton, who worked tirelessly on the Equal Employment for All Act and the Fair Access to Credit Scores Act. I am happy to see that language to provide free credit scores is also included in the Comprehensive CREDIT Act of 2020.

I want to thank again Chairwoman WATERS and the dedicated staff on the Financial Services Committee. And I encourage all of my colleagues to support my amendment and vote for the overall bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I claim the time in opposition. I am opposed to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chairman, this amendment is more of the same. It prevents employers from identifying and fulfilling the needs of their companies.

Now, use of a credit score, you would argue, is not perfect for every job, but there are certain cases where that would, in fact, be a reasonable thing and a reasonable limitation on employment; and I would ask the amendment sponsor if that is the case.

Are there reasonable limitations that we could find here for the types of employment where a credit report may be helpful to an employer?

I would ask the bill's sponsor, Mr. COHEN of Tennessee, who is here in the room, so your amendment says you cannot use the credit report for anything related to hiring; is that correct?

I yield to the gentleman from Tennessee.

Mr. COHEN. Right.

Mr. MCHENRY. I understand that correctly. Is there any reasonable limitation—as an employer, is there any reasonable expectation for using a credit report in a hiring process, in your view?

Mr. COHEN. I am still having trouble hearing. Like in the 8 years when I was in the minority, I couldn't hear the majority party give me a chance to bring this to a vote. But I don't think the answer is yes. The answer is no.

Mr. MCHENRY. Reclaiming my time. If the amendment sponsor doesn't wish to engage in debate, then don't come to the House floor, Mr. Chair, unless you want to engage in a debate. I am offering a reasonable question. The gentleman may be so far in left field he can't hear me in this Chamber.

But I would say this: As an employer, if you are handling cash, as an example, every day, is it a reasonable thing to check somebody's credit report to see if somebody has perhaps—I don't know—had problems with cash, or is

massively in debt, or has not paid their bills. Is that a reasonable thing?

Is it a reasonable thing if you get hired by the FBI to know that you have massive debt and, therefore, could fall victim to extortion?

I think there is a reasonable limitation. And what the gentleman has already exposed with his unwillingness to even engage in a simple colloquy—the gentleman has been around this House long enough to know this general process, but he doesn't want to answer the question.

The reason he doesn't want to answer the question is he doesn't believe any employer should be able to look at a consumer credit report for any hiring procedure, and I think that is patently absurd, Mr. Chair.

So if employers have a real fear that hiring or retaining an individual can jeopardize the integrity of an institution, I think they should be able to check a credit report; just like in certain circumstances, somebody's criminal background could be harmful.

I will give you an example. Elder abuse. I think it is reasonable to know if somebody has committed a violent crime or has extorted money from people. I think that is a reasonable circumstance, is it not?

So I would say this: I offered a reasonable opportunity for a debate on this. This is an absurd amendment that should be rejected.

Mr. Chair, I reserve the balance of my time.

Mr. COHEN. Mr. Chair, it can't be the sole reason for denying a job, number one. That is what the bill says. And there are exemptions for circumstances when Federal, State, or local law call for it, or a national security clearance.

Indeed, I think that if you are an administrator, if you are over, say, the foreign policy of the United States and the Defense Department, people should know if you have great debts to, like, Russia or something. People should have a right to know that because it could relate to your employment. But that is another issue.

Mr. Chair, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Chairman, I rise to support the underlying bill by Representative PRESSLEY, and I thank her for her outstanding leadership. And I rise, in particular, to support the reasonable, smart amendment of Mr. COHEN. It says very clearly that it is the sole reason.

Let me be clear again, to my good friend. A credit score, or owing bills, is not criminal. It is not a criminal act. It doesn't in any way diminish your ability to do your job.

One percent of the American people own 90 percent of the wealth. That means that students with debt, and millennials, mostly, are not in that category. That means that you are not encouraging leadership if you use a credit score as the sole reason for denying an able leader that happens to be a millennial to get a job. I am outraged and insulted by the premise.

Mr. COHEN's amendment is a smart amendment that indicates, give these individuals a chance, as does the underlying bill by Ms. PRESSLEY.

I rise enthusiastically to give relief to millennials and those with major student debt; one, under this act; and two, under Mr. COHEN's amendment not to deny them a job.

I support the Cohen amendment. I support the underlying bill by Ms. PRESSLEY, the Comprehensive CREDIT Act of 2020, and I believe we should vote ''yes'' on that amendment and ''yes'' on the bill. Do our job for the millennials.

Mr. MCHENRY. Mr. Chair, I reserve the balance of my time.

Mr. COHEN. Mr. Chair, is the gentleman ready to close? Is the gentleman ready to learn if a President has debts to Russia before he can count the money?

Mr. MCHENRY. I will inquire of the Chair; how much time remains on both sides.

The Acting CHAIR. The gentleman from North Carolina has 1½ minutes remaining. The gentleman from Tennessee has 30 seconds remaining.

Mr. MCHENRY. I have the right to close and I intend to do so.

Mr. COHEN. Mr. Chairman, I yield back the balance of my time.

Mr. MCHENRY. Mr. Chair, for the express purpose of this amendment, in legislative text it says that you cannot use a consumer credit report or the information therein to deny employment. And the gentleman in the very debate, Mr. Chair, said that he thinks some different standard. But that is not what this amendment does.

This is a deeply-flawed amendment that has not been—I think it has been thought through, because the gentleman wants to ban every potential limitation on employment, even in a sensitive industry, even dealing with the elderly, even dealing with children; and I think that is way too far to the left and out of the mainstream.

And this amendment is not conforming with the rhetoric that he used on the floor. In fact, it is much more far-reaching.

But it is also quite fitting with the overall bill, because the overall bill is about socializing credit; and if you socialize credit, you can't use any form or factor, and so I think this is really problematic.

If employers have a real fear that hiring an individual can jeopardize the integrity of an institution, for instance, a financial institution, or cause harm to the very people they are trying to care for, or share sensitive information on their customers, then they should have the opportunity to not hire those people that will cause harm or wreck our financial system.

So this is a way-out-left amendment, and it is a way-out-left bill.

So while I oppose it, I wish the gentleman well. And I wish that we could actually engage in some reasonable debate like I had with other Members. But I realize not all Members are the same.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. TAKANO

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part B of House Report 116–383.

Mr. TAKANO. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 143, after line 8, insert the following:

(c) PROHIBITION ON INCLUSION OF ARREST INFORMATION IF THERE IS NO CONVICTION.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)), as amended by section 809, is further amended by adding at the end the following:

''(18) Records of an arrest, if the consumer was not convicted of any crime in connection with the arrest.''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from California (Mr. TAKANO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. TAKANO. Mr. Chair, I rise to offer an amendment to the Comprehensive CREDIT Act of 2020 that would prohibit the inclusion of arrest records on a consumer report if the arrest did not lead to a conviction.

Consumer reporting in this country is extremely broken, and consumer reports regularly have unexpected errors. Millions of public records do not contain accurate information, which means that reports have been found to include outdated information and misclassified offenses.

Additionally, incomplete reports fail to say whether or not a person who faced an arrest was exonerated or if criminal charges against them were dropped.

An arrest does not prove criminal conduct and it is not a presumption of guilt. If a consumer was arrested and there was no subsequent conviction, that arrest should not be allowed to show on a consumer report.

Now, due to the extreme bias in our criminal justice system, people of color are arrested and convicted at disproportionate levels in this country. For example, we know that African Americans and Hispanics are approximately two to three times more likely to be arrested than their White counterparts.

□ 1600

These disproportionate levels of arrests can negatively impact the ability for African Americans and Hispanics to obtain housing or find employment. That is why California, New York, and Kentucky have prohibited the inclusion of arrest records without a conviction on consumer reports. We need to

follow their lead and implement this nationwide.

I am encouraged by the work of my colleagues on the Financial Services Committee to limit the time adverse information can remain on a consumer credit report, including information pertaining to convictions.

My amendment goes one step further by prohibiting arrest records from being included if they do not lead to a criminal conviction. Consumers deserve a fair shot in society and should not be penalized for wrongful arrests or arrests that did not lead to a guilty conviction.

Mr. Chairman, I urge my colleagues to support my amendment, and I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from North Carolina is recognized for 5 minutes.

Mr. MCHENRY. Mr. Chairman, this amendment would prohibit the inclusion of any arrest records on a consumer report if the arrest did not result in a conviction, but looking at the intention here, I would say to my colleague, I see the intention here.

In my view, this needs a little more work. And I say this to a Member who is not on the Financial Services Committee. So it is a very thoughtful amendment. I appreciate the gentleman's approach.

The difficulty here, and I am happy to yield, but the difficulty here is at what level? Is it multiple arrests that would be—I mean, I see this as the right intent.

You don't want somebody who makes a mistake, and their court date—because State courts are backed up, and you have a court date 6 months or a year in advance. You did something dumb. You are going to pay the price. You are a law-abiding citizen otherwise, but you broke the law, and you are accused of something very serious. In that period of time, you can't buy a house, potentially, you can't buy a car. I see that as the intention.

Now, you also have the circumstance where you have somebody who has a traumatic life event and has a serious break from their previous reality, and over a short period of time, over that same 6 months, let's say, they have multiple arrests in increasing severity. We talk about the opioid crisis, but we have a larger societal crisis around mental illness and around abuse of illicit and otherwise heavily regulated drugs. So we have these periods of time that we have got to wrestle with in Federal law, but I see the gentleman's intent.

So, while I am opposed to this amendment because I think it is too broad because I think there are severe penalties for that period of time, I think it is probably right and just to have a pause, and if something changes, then they need to remove the fact that you are even accused of a crime. That shouldn't be pertinent to somebody's long-term credit.

So that is how I see it. If I am off base in some way, I am happy to engage on that.

I yield to the gentleman from California for a response.

Mr. TAKANO. Mr. Chairman, I appreciate the gentleman yielding.

I want to point out to the gentleman that my amendment pertains to records of arrests that appear on consumer reports that did not lead to a conviction, so, what is recorded on the report is an arrest.

I don't believe most Americans believe that it is fair for that consumer to suffer adverse ability to gain housing or to gain credit or whatever it may be, a job, but employers look at job——

Mr. MCHENRY. Mr. Chairman, reclaiming my time, on that subject matter, it is the period of time between the arrest and the court date is my concern.

Mr. TAKANO. Mr. Chairman, is the gentleman concerned about the pending arrest?

Mr. MCHENRY. Yes.

Mr. TAKANO. Mr. Chairman, we believe in those instances where there has been an arrest and there is a pending trial, so the arrest shows up on their record and there is a pending trial, we think it is a very small number of cases.

I do agree with the gentleman from North Carolina that is something we should address, and I would be more than happy to work with him on final language if this should gain legs. I believe we can cure that particular instance.

Mr. MCHENRY. Mr. Chairman, I would say I think the gentleman from California (Mr. TAKANO) has offered a thoughtful amendment. We don't want any unjust actions taken against somebody because they are accused of something at one period of time or made a mistake and the courts found that that was not, in fact, something illegal.

So I think he has the right intent. I think the gentleman's inclination is right. I would be happy to work with him on a standalone measure to achieve something similar, but I appreciate that.

Mr. Chairman, I reserve the balance of my time.

Mr. TAKANO. Mr. Chairman, I yield myself such time as I may consume.

I appreciate the spirit in which the gentleman from North Carolina understands the intent here. I believe that most Americans seeing this language on its face would say it makes common sense. There is a kind of netherworld for that person who has been arrested but, yet, who has not been tried.

I still say that our system of jurisprudence says that the person who has been arrested and not yet tried is still presumed to be innocent, and I still maintain that it is reasonable for Congress to hold a consumer reporting agency accountable to only reporting records of arrest for those who have been convicted.

I understand there is some netherworld here, but I still think we need to err on the side of our system of jurisprudence, which says that we presume a person to be innocent until proven guilty, and a person who has been arrested and not yet gone to trial is in that status.

Mr. Chairman, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chairman, again, I still have concerns, but in the interest of due process, the direction of this amendment I think is a thoughtful one, and the gentleman's explanation is a strong explanation of his amendment.

I would say in language such as no conviction, perhaps acquittal may be some better form of this, but this is something I am happy to work on if this ever gets to a conference committee, which I don't believe the bill will. But I am happy to engage with my colleague from California on the contents of this, and, as a separate measure, potentially, to work with him on that.

Mr. Chairman, I yield back the balance of my time.

Mr. TAKANO. Mr. Chairman, I yield myself the balance of my time.

I urge that my colleagues back this very commonsense amendment, which would ensure that any person who has been arrested but never convicted or whose case has never been brought to trial—actually, not been convicted. I want to make it very clear, if they have not been convicted, they should not be listed on a consumer credit report.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. TAKANO).

The amendment was agreed to.

AMENDMENT NO. 13 OFFERED BY MR. BROWN OF MARYLAND

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part B of House Report 116–383.

Mr. BROWN of Maryland. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 44, line 18, before the period insert ''(increased by $15,000,000)''.

At the end of title IX, add the following:

SEC. 904. SENSE OF CONGRESS.

It is the sense of Congress that efforts to enhance cybersecurity and implement routine security updates of databases maintained by the nationwide consumer reporting agencies that contain sensitive consumer data, including the credit history and personal information of millions of Americans, is critical to the national interest of the United States.

SEC. 905. CYBERSECURITY SUPERVISION AND EXAMINATION OF LARGE CONSUMER REPORTING AGENCIES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by section 706, is further amended by adding at the end the following:

"SEC. 637. CYBERSECURITY SUPERVISION AND EXAMINATION OF LARGE CONSUMER REPORTING AGENCIES.

''(a) IN GENERAL.—Consumer reporting agencies described under section 603(p) shall be subject to cybersecurity supervision and examination by the Bureau.

''(b) MINIMUM TRAINING REQUIREMENTS.—Consumer reporting agencies described under section 603(p) shall meet minimum training and ongoing certification requirements with respect to cybersecurity at regular intervals, as established by the Director of the Bureau.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Fair Credit Reporting Act, as amended by section 706, is further amended by adding at the end the following:

''637. Cybersecurity supervision and examination of large consumer reporting agencies.''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from Maryland (Mr. BROWN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. BROWN of Maryland. Mr. Chairman, I yield myself such time as I may consume.

I want to first recognize the hard work of the Financial Services Committee, under the leadership of Chairwoman WATERS, and also the work and the commitment of Congresswoman PRESSLEY on the underlying bill.

This legislative package reforms the credit reporting industry and improves consumer protections.

Credit scores play a critical role in the lives and financial futures of American consumers. The information relied upon by the industry is personal to us, things like when we were born, where we live, and where we work. This data is some of the most valuable information that we have in today's digital economy. It often is how we prove our very identity, if not existence. It is key to every aspect of our lives, from applying to college, purchasing a car, obtaining housing, investing in our futures, and, eventually, to collecting retirement.

Credit agencies have not adequately secured this data and have violated our trust. The most egregious example of this is the Equifax breach of 2017. This theft was not a high-tech cyberattack. The weaknesses in the Equifax systems were known, as were the fixes, yet Equifax failed to take action.

The credit agencies have demonstrated that they are not able to secure their systems by themselves. It is time for Congress to protect Americans from threats against their credit history and the misuse of their personal information.

My amendment, Mr. Chairman, addresses this issue in two ways:

First, it requires credit agencies to ensure they are meeting minimum training requirements for cybersecurity. Every major corporation and most Federal, State, and local government entities understand that cybersecurity training is crucial and have established training requirements and standards. Credit agencies should do the same.

Second, it gives the Consumer Financial Protection Bureau the authority to examine the cybersecurity protocols and training of credit agencies, to ensure these agencies are taking appropriate steps to secure our critical personal information. This oversight will ensure that credit agencies are proactively adapting to the change in threats more institutions face in cyberspace.

Mr. Chairman, I urge my colleagues to support this amendment and the underlying legislation, and I yield back the balance of my time.

Mr. MCHENRY. Mr. Chairman, I rise in opposition to this amendment, though I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. Mr. Chairman, I yield myself such time as I may consume.

I am happy to see my friends on the other side of the aisle take the same interest that we have on this side of the aisle in protecting cybersecurity and protecting consumer data. I think it is great that this is a bipartisan concern that we share.

This amendment reaffirms the data security concerns that Republicans have highlighted in the past with respect to credit reporting agencies, including back in February of last year, the only time we had a hearing in the House Financial Services Committee on the credit reporting agencies. We want to ensure that these credit reporting agencies protect our data.

The collection and maintenance of our personal information and exposing that to risk is deeply problematic. All we need to do is look back a few years ago to the Equifax breach to understand how vital cybersecurity standards are, not only at the consumer credit reporting agencies, but across the financial sector.

I appreciate the gentleman from Maryland using the language from my substitute amendment that I offered before the Rules Committee and before the House Financial Services Committee and incorporating it into this amendment. I am disappointed that the rest of the bill was not as bipartisan as this amendment text.

Since this bill is not going anywhere, I would ask whether or not the author of the amendment would be interested in drafting a separate suspensionable—I think it has wide bipartisan support—a suspension-worthy version of this as a stand-alone bill.

I yield to the gentleman from Maryland.

Mr. BROWN of Maryland. Mr. Chairman, I thank the gentleman for yielding.

I don't share the gentleman from New Jersey's pessimism this early in the game, so I will reserve judgment and a response for the appropriate time.

Mr. MCHENRY. Mr. Chairman, reclaiming my time, I thank my new colleague, but bipartisanship is kind of rare to happen around here, so when it is offered, let's just go try to get it, try to work on it. That would be my suggestion, Mr. Chairman. Since this is the language, verbatim, from my substitute, I am trying to be charitable.

But with that, like I said, I am not opposed to the amendment. In fact, I am proud to really have written the contents of what is being offered. I am grateful that the gentleman offered it and the Rules Committee approved it, because they didn't approve my standalone amendment in the nature of a substitute.

Mr. Chairman, we are not going to resolve those broader issues, but I am happy to work with the gentleman if he is ever interested in a bipartisan bill on this measure. I am happy to do that.

I am fine with the passage of this. I think the underlying bill is still deeply flawed. This doesn't tip the balance for me to make an awful bill really good, but it does make an awful bill just slightly less awful.

Mr. Chairman, I yield back the balance of my time.

□ 1615

The Acting CHAIR. The question is on the amendment offered by the gentleman from Maryland (Mr. BROWN).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. BROWN of Maryland. Mr. Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Maryland will be postponed.

AMENDMENT NO. 14 OFFERED BY MR. PANETTA

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in part B of House Report 116–383.

Mr. PANETTA. Mr. Chair, I do have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 135, line 21, insert '', including homelessness (as defined by the Secretary of Housing and Urban Development),'' after ''barriers''.

The Acting CHAIR. Pursuant to House Resolution 811, the gentleman from California (Mr. PANETTA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. PANETTA. Mr. Chair, I thank Mr. LAWSON, Ms. PRESSLEY, and the ranking member for their work on this bill.

I rise to offer an amendment to H.R. 3621, the Student Borrower Credit Improvement Act.

As we all know, this bill that we are considering today strengthens consumer protections for all Americans by making overdue reforms to credit reporting.

Specifically, the Student Borrower Credit Improvement Act gives borrowers facing economic hardship an opportunity to repair their credit profiles and prevent certain prior delinquencies from being reported.

These borrowers, who are working to do everything right, deserve that chance to repair their credit scores. But at times, when a borrower experiences sudden economic hardship, it can be nearly impossible to make payments on time. That is why the legislation in front of us allows borrowers to pause their repayments when they demonstrate undue hardship resulting from an unusual extenuating life circumstance.

My amendment would include homelessness, as defined by HUD, as an extenuating life circumstance demonstrating a hardship, therefore making them eligible for that type of grace period that this legislation allows.

When a borrower experiences homelessness, it is nearly impossible to focus on anything else, and securing a safe place to live becomes a top priority.

This amendment would ensure that a borrower who is experiencing homelessness can focus on finding a place to stay without worrying about missing a payment.

A Federal Reserve study has shown that student loan debt has caused a third of borrowers to move in with their parents after school. But many students with debt lack that type of support system, and faced with a lack of housing options, they do become homeless.

On the central coast of California, where I represent, there are some borrowers who face homelessness even before graduating college. Students at the local university, the University of California at Santa Cruz, many of them have been forced to live in vehicles in the university's parking lots.

By including my amendment in this legislation, we can ensure that borrowers experiencing homelessness are given a temporary reprieve and preserve their ability to repair their credit.

Mr. Chair, I reserve the balance of my time.

Mr. MCHENRY. Mr. Chair, I claim the time in opposition to the amendment, even though I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman from North Carolina is recognized for 5 minutes.

There was no objection.

Mr. MCHENRY. Mr. Chair, as we all know, homelessness is an issue that has plagued the lives of many Americans across this country, and we know the particular crisis that is in Los Angeles.

I know that the gentleman is trying to deal with the particular issues of his home State, and so I commend him for that. But he is also highlighting something that has been a big debate—not debate, but a big point of discussion, I would say, and shared concern about homelessness that we have in the Financial Services Committee.

I know every committee of jurisdiction has homelessness as a part of their agenda, but we are the committee that does housing, and we are trying to draw some consensus on how we deal with this homelessness crisis.

We have a crisis of affordability across the country, but in particular, in high growth areas. It is a blessing that it is a high-growth area, but there is an enormous number of challenges that come along the way.

It means that commutes get longer for people who are working-class folks. It means that you have folks who are making serious life decisions with a great limitation, right? So that impairs, I think, economic growth.

It is not just in New York or Los Angeles or San Francisco where there is a homelessness crisis. I say this not using it as words of attack to the sponsor of this. It is not. We have a homelessness crisis in every community in America because we have homeless. We have a veterans homelessness crisis because if we have a single veteran who is homeless, that is not in keeping with who we are as America.

So I think it is important to raise this issue of homelessness in every way we can. I think a number of the policies that have been offered this Congress will make things worse, not better.

For the affordability challenge, I feel like national rent control policies and things of that sort will move us in the wrong direction for ensuring that we have enough housing stock for those who seek it. With the changing nature of how people want to live, we have to make sure that housing stock fits with that so you are able to grow housing stock to meet that need, not just for young people, but for old people and everybody in between, as I find out I am getting old, right?

But with this, I appreciate my colleague for offering this amendment. I think it is a thoughtful approach. It gives us the opportunity to have a wider discussion about homelessness and the challenges therein to those experiencing it, to the communities that are struggling with it, and to all of us to come to terms with the best way to approach it.

Look, this doesn't tip the balance in my view of the underlying bill. For those of you who have been paying attention to this debate, I won't repeat myself on this, but this is the final amendment.

I think the bill's sponsor is of goodwill in trying to address this. The underlying bill is still deeply problematic to me, but I commend my colleague for raising that.

Mr. Chair, I reserve the balance of my time.

Mr. PANETTA. Mr. Chair, I thank Mr. MCHENRY for his very thoughtful comments.

Mr. Chair, I yield the remainder of my time to the gentlewoman from Massachusetts (Ms. PRESSLEY).

Ms. PRESSLEY. Mr. Chair, I find very often we tend to stereotype and present a very shallow narrative as to who experiences homelessness or is on the precipice of experiencing it.

The reality is that struggle is certainly not a character flaw, and hardship is transcendent. Many of us have disruptive life events: a layoff, a death, a natural disaster, displacement. I could go on.

The point is that far too many Americans are living on the brink of financial collapse. So while this administration continues to undo basic protections for those experiencing homelessness, we must be working to support them and help them to regain stability.

There is no hierarchy of hurt. As someone who faced multiple eviction notices growing up, I can tell you that losing one's home is every bit as traumatic as losing one's job or being diagnosed with a life-threatening illness.

We should be working to help people find housing, not punishing and criminalizing those without it.

This amendment would make it clear that Americans facing homelessness are able to get relief under our bill. I am proud to support it.

Mr. Chair, I thank my colleague from California for offering this amendment. And in that this is the final amendment, I want to thank Chairwoman WATERS for her leadership; the dedicated Financial Services Committee staff; Representative LAWSON; and my dedicated A Team, specifically Aya Ibrahim, who has been the lead on this bill.

Mr. MCHENRY. Mr. Chair, again, for the overall bill, to put a bow on this, if you will, this bill is about socializing credit scores. If you socialize credit scores, you can socialize credit. If you can socialize credit, then you can have government make the decision about the allocation of credit in the private sector.

This is a larger narrative from the far left in this country, which has now taken the opportunity to attempt to make legislative gains.

The President has said he will not sign this bill, thankfully, which is good for the American consumer. Furthermore, I don't see this seeing the light of day in the Senate.

Having said that, we still need to have a serious bipartisan conversation about how to reform the credit reporting agencies and the law that underlies their regulatory framework.

Mr. Chair, I am grateful for the opportunity to debate here on the House floor. While I am not opposed to this amendment, I remain opposed to the overall bill and will urge my colleagues to vote ''no'' on that. But, again, I commend the gentleman from California (Mr. PANETTA) for his offering of a thoughtful amendment dealing with homelessness and raising this issue, not as a local issue, but as one of national import and one worthy of debate here on the House floor.

Mr. Chair, I yield back the balance of my time.

Mr. PANETTA. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

Mr. LAWSON of Florida. Mr. Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Mr. PAYNE, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3621) to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 27 minutes p.m.), the House stood in recess.

□ 1759

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. QUIGLEY) at 5 o'clock and 59 minutes p.m.

HOUR OF MEETING ON TOMORROW

Mr. NEGUSE. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

STUDENT BORROWER CREDIT IMPROVEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 811 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 3621.

Will the gentlewoman from Colorado (Ms. DEGETTE) kindly take the chair.

□ 1800

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 3621) to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes, with Ms. DEGETTE (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose earlier today, amendment No. 14 printed in part B of House Report 116–383 offered by the gentleman from California (Mr. PANETTA) had been disposed of.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 116–383 on which further proceedings were postponed, in the following order:

Amendment No. 4 by Mr. CLAY of Missouri.

Amendment No. 13 by Mr. BROWN of Maryland.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. CLAY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Missouri (Mr. CLAY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 185, not voting 19, as follows:

[Roll No. 28]

AYES—231

Adams
Aguilar
Allred
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brindisi
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Case
Casten (IL)
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Cisneros
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Cox (CA)
Craig
Crist
Crow
Cuellar
Cunningham
Davids (KS)
Davis (CA)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Engel
Escobar
Eshoo
Espaillat
Evans
Finkenauer
Fletcher
Foster
Frankel
Fudge
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez (TX)
Gottheimer
Green, Al (TX)
Grijalva
Haaland
Harder (CA)
Hayes
Higgins (NY)
Himes
Horn, Kendra S.
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim
Kind
Krishnamoorthi
Kuster (NH)
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Levin (CA)
Levin (MI)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Luján
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Matsui
McAdams
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Norcross
Norton
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Perry
Peters
Peterson
Phillips
Pingree
Plaskett
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rogers (AL)
Rose (NY)
Rouda
Roybal-Allard
Ruiz
Ruppersberger
Rush
Sablan
San Nicolas
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shalala
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Spano
Stanton
Stevens
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Wilson (FL)
Yarmuth
Young

NOES—185

Abraham
Aderholt
Allen
Amash
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bergman
Biggs
Bilirakis
Bishop (NC)
Bishop (UT)
Bost
Brady
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Budd
Burchett
Burgess
Calvert
Carter (GA)
Carter (TX)
Chabot
Cheney
Cline
Cloud
Cole
Collins (GA)
Comer
Conaway
Cook
Crawford
Crenshaw
Curtis
Davidson (OH)
Davis, Rodney
DesJarlais
Diaz-Balart
Duncan
Dunn
Emmer
Estes
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx (NC)
Fulcher
Gaetz
Gallagher
Gianforte
Gibbs
Gohmert
Gonzalez (OH)
González-Colón (PR)
Gooden
Gosar
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Hartzler
Hern, Kevin
Herrera Beutler
Hice (GA)
Hill (AR)
Holding
Hollingsworth
Hudson
Huizenga
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (PA)
King (IA)
King (NY)
Kustoff (TN)
LaHood
LaMalfa
Lamborn
Latta
Lesko
Long
Lucas
Luetkemeyer
Marchant
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
Meadows
Meuser
Miller
Mitchell
Moolenaar
Mooney (WV)
Newhouse
Norman
Nunes
Olson
Palazzo
Palmer
Pence
Posey
Ratcliffe
Reed
Reschenthaler
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Roe, David P.
Rogers (KY)
Rose, John W.
Rouzer
Roy
Rutherford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Shimkus
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Stauber
Stefanik
Steil
Steube
Stewart
Taylor
Thompson (PA)
Thornberry
Timmons
Tipton
Turner
Upton
Van Drew
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Watkins
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho
Zeldin

NOT VOTING—19

Buck	Kinzinger	Radewagen
Byrne	Kirkpatrick	Rooney (FL)
Gabbard	Lewis	Ryan
Hastings	Loudermilk	Speier
Heck	Luria	Stivers
Higgins (LA)	Mullin	
Kelly (MS)	Murphy (NC)	

□ 1840

Mr. HUDSON changed his vote from ''aye'' to ''no.''

Mr. MCNERNEY, Mses. WASSERMAN SCHULTZ, and JACKSON LEE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 13 OFFERED BY MR. BROWN OF MARYLAND

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. BROWN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 376, noes 38, not voting 21, as follows:

[Roll No. 29]

AYES—376

Adams	Cartwright	Demings
Aderholt	Case	DeSaulnier
Aguilar	Casten (IL)	DesJarlais
Allen	Castor (FL)	Deutch
Allred	Castro (TX)	Diaz-Balart
Amodei	Chabot	Dingell
Armstrong	Cheney	Doggett
Axne	Chu, Judy	Doyle, Michael F.
Bacon	Cicilline	Dunn
Baird	Cisneros	Emmer
Balderson	Clark (MA)	Engel
Banks	Clarke (NY)	Escobar
Barr	Clay	Eshoo
Barragán	Cleaver	Espaillat
Bass	Clyburn	Estes
Beatty	Cohen	Evans
Bera	Cole	Finkenauer
Bergman	Collins (GA)	Fitzpatrick
Beyer	Comer	Fleischmann
Bilirakis	Conaway	Fletcher
Bishop (GA)	Connolly	Fortenberry
Bishop (UT)	Cook	Foster
Blumenauer	Cooper	Foxx (NC)
Blunt Rochester	Correa	Frankel
Bonamici	Costa	Fudge
Bost	Courtney	Fulcher
Boyle, Brendan F.	Cox (CA)	Gallagher
Brady	Craig	Gallego
Brindisi	Crawford	Garamendi
Brooks (IN)	Crenshaw	García (IL)
Brown (MD)	Crist	Garcia (TX)
Brownley (CA)	Crow	Gianforte
Buchanan	Cuellar	Gibbs
Bucshon	Cunningham	Golden
Budd	Curtis	Gomez
Burgess	Davids (KS)	Gonzalez (OH)
Bustos	Davis (CA)	Gonzalez (TX)
Butterfield	Davis, Danny K.	González-Colón (PR)
Calvert	Davis, Rodney	Gottheimer
Carbajal	Dean	Granger
Cárdenas	DeFazio	Graves (GA)
Carson (IN)	DeGette	Graves (LA)
Carter (GA)	DeLauro	Graves (MO)
Carter (TX)	DelBene	Green (TN)
Cartwright	Delgado	Green, Al (TX)
Case	Demings	Grijalva
Casten (IL)	DeSaulnier	Grothman
Castor (FL)	DesJarlais	Guest
Castro (TX)	Deutch	Guthrie
Chabot	Diaz-Balart	Haaland
Cheney	Dingell	Hagedorn
Chu, Judy	Doggett	Harder (CA)
Cicilline	Doyle, Michael F.	Hartzler
Cisneros	Dunn	Hayes
Clark (MA)	Emmer	Hern, Kevin
Clarke (NY)	Engel	Herrera Beutler
Clay	Escobar	Hice (GA)
Cleaver	Eshoo	Higgins (NY)
Clyburn	Espaillat	Hill (AR)
Cohen	Estes	Himes
Cole	Evans	Holding
Collins (GA)	Finkenauer	Hollingsworth
Comer	Fitzpatrick	Horn, Kendra S.
Conaway	Fleischmann	Horsford
Connolly	Fletcher	Houlahan
Cook	Fortenberry	Hoyer
Cooper	Foster	Hudson
Correa	Foxx (NC)	Huffman
Costa	Frankel	Hurd (TX)
Courtney	Fudge	Jackson Lee
Cox (CA)	Fulcher	Jayapal
Craig	Gallagher	Jeffries
Crawford	Gallego	Johnson (GA)
Crenshaw	Garamendi	Johnson (LA)
Crist	García (IL)	Johnson (OH)
Crow	Garcia (TX)	Johnson (SD)
Cuellar	Gianforte	Johnson (TX)
Cunningham	Gibbs	Joyce (OH)
Curtis	Golden	Joyce (PA)
Davids (KS)	Gomez	Kaptur
Davis (CA)	Gonzalez (OH)	Katko
Davis, Danny K.	Gonzalez (TX)	Keating
Davis, Rodney	González-Colón (PR)	Keller
Dean	Gottheimer	Kelly (IL)
DeFazio	Granger	Kelly (PA)
DeGette	Graves (GA)	Kennedy
DeLauro	Graves (LA)	Khanna
DelBene	Graves (MO)	Kildee
Delgado	Green (TN)	Kilmer
Demings	Green, Al (TX)	Kim
DeSaulnier	Grijalva	Kind
DesJarlais	Grothman	King (NY)
Deutch	Guest	Krishnamoorthi
Diaz-Balart	Guthrie	Kuster (NH)
Dingell	Haaland	Kustoff (TN)
Doggett	Hagedorn	LaHood
Doyle, Michael F.	Harder (CA)	LaMalfa
Dunn	Hartzler	Lamb
Emmer	Hayes	Lamborn
Engel	Hern, Kevin	Langevin
Escobar	Herrera Beutler	Larsen (WA)
Eshoo	Hice (GA)	Larson (CT)
Espaillat	Higgins (NY)	Latta
Estes	Hill (AR)	Lawrence
Evans	Himes	Lawson (FL)
Finkenauer	Holding	Lee (CA)
Fitzpatrick	Hollingsworth	Lee (NV)
Fleischmann	Horn, Kendra S.	Lesko
Fletcher	Horsford	Levin (CA)
Fortenberry	Houlahan	Levin (MI)
Foster	Hoyer	Lieu, Ted
Foxx (NC)	Hudson	Lipinski
Frankel	Huffman	Loebsack
Fudge	Hurd (TX)	Lofgren
Fulcher	Jackson Lee	Long
Gallagher	Jayapal	Lowenthal
Gallego	Jeffries	Lowey
Garamendi	Johnson (GA)	Lucas
García (IL)	Johnson (LA)	Luetkemeyer
Garcia (TX)	Johnson (OH)	Luján
Gianforte	Johnson (SD)	Lynch
Gibbs	Johnson (TX)	Malinowski
Golden	Joyce (OH)	Maloney, Carolyn B.
Gomez	Joyce (PA)	Maloney, Sean
Gonzalez (OH)	Kaptur	Marshall
Gonzalez (TX)	Katko	Mast
González-Colón (PR)	Keating	Matsui
Gottheimer	Keller	McAdams
Granger	Kelly (IL)	McBath
Graves (GA)	Kelly (PA)	McCarthy
Graves (LA)	Kennedy	McCaul
Graves (MO)	Khanna	McCollum
Green (TN)	Kildee	McEachin
Green, Al (TX)	Kilmer	McGovern
Grijalva	Kim	McHenry
Grothman	Kind	McKinley
Guest	King (NY)	McNerney
Guthrie	Krishnamoorthi	Meadows
Haaland	Kuster (NH)	Meeks
Hagedorn	Kustoff (TN)	Meng
Harder (CA)	LaHood	Meuser
Hartzler	LaMalfa	Miller
Hayes	Lamb	Mitchell
Hern, Kevin	Lamborn	Moolenaar
Herrera Beutler	Langevin	Moore
Hice (GA)	Larsen (WA)	Morelle
Higgins (NY)	Larson (CT)	Moulton
Hill (AR)	Latta	Mucarsel-Powell
Himes	Lawrence	Murphy (FL)
Holding	Lawson (FL)	Nadler
Hollingsworth	Lee (CA)	Napolitano
Horn, Kendra S.	Lee (NV)	Neal
Horsford	Lesko	Neguse
Houlahan	Levin (CA)	Newhouse
Hoyer	Levin (MI)	Norcross
Hudson	Lieu, Ted	Norton
Huffman	Lipinski	Nunes
Hurd (TX)	Loebsack	O'Halleran
Jackson Lee	Lofgren	Ocasio-Cortez
Jayapal	Long	Olson
Jeffries	Lowenthal	Omar
Johnson (GA)	Lowey	Palazzo
Johnson (LA)	Lucas	Pallone
Johnson (OH)	Luetkemeyer	Palmer
Johnson (SD)	Luján	Panetta
Johnson (TX)	Lynch	Pappas
Joyce (OH)	Malinowski	Pascrell
Joyce (PA)	Maloney, Carolyn B.	Payne
Kaptur	Maloney, Sean	Pence
Katko	Marshall	Perlmutter
Keating	Mast	Perry
Keller	Matsui	Peters
Kelly (IL)	McAdams	Peterson
Kelly (PA)	McBath	Phillips
Kennedy	McCarthy	Pingree
Khanna	McCaul	Plaskett
Kildee	McCollum	Pocan
Kilmer	McEachin	Porter
Kim	McGovern	Posey
Kind	McHenry	Pressley
King (NY)	McKinley	Price (NC)
Krishnamoorthi	McNerney	Quigley
Kuster (NH)	Meadows	Raskin
Kustoff (TN)	Meeks	Ratcliffe
LaHood	Meng	Reed
LaMalfa	Meuser	Reschenthaler
Lamb	Miller	Rice (NY)
Lamborn	Mitchell	Richmond
Langevin	Moolenaar	Roby
Larsen (WA)	Moore	Rodgers (WA)
Larson (CT)	Morelle	Rogers (AL)
Latta	Moulton	Rogers (KY)
Lawrence	Mucarsel-Powell	Rose (NY)
Lawson (FL)	Murphy (FL)	Rose, John W.
Lee (CA)	Nadler	Rouda
Lee (NV)	Napolitano	Rouzer
Lesko	Neal	Roybal-Allard
Levin (CA)	Neguse	Ruiz
Levin (MI)	Newhouse	Ruppersberger
Lieu, Ted	Norcross	Rush
Lipinski	Norton	Rutherford
Loebsack	Nunes	Sablan
Lofgren	O'Halleran	San Nicolas
Long	Ocasio-Cortez	Sánchez
Lowenthal	Olson	Sarbanes
Lowey	Omar	Scalise
Lucas	Palazzo	Scanlon
Luetkemeyer	Pallone	Schakowsky
Luján	Palmer	Schiff
Lynch	Panetta	Schneider
Malinowski	Pappas	Schrader
Maloney, Carolyn B.	Pascrell	Schrier
Maloney, Sean	Payne	Schweikert
Marshall	Pence	Scott (VA)
Mast	Perlmutter	Scott, Austin
Matsui	Perry	Scott, David
McAdams	Peters	Sensenbrenner
McBath	Peterson	Serrano
McCarthy	Phillips	Sewell (AL)
McCaul	Pingree	Shalala
McCollum	Plaskett	Sherman
McEachin	Pocan	Sherrill
McGovern	Porter	Shimkus
McHenry	Posey	Simpson
McKinley	Pressley	Sires
McNerney	Price (NC)	Slotkin
Meadows	Quigley	Smith (MO)
Meeks	Raskin	Smith (NJ)
Meng	Ratcliffe	Smith (WA)
Meuser	Reed	Smucker
Miller	Reschenthaler	Soto
Mitchell	Rice (NY)	Spanberger
Moolenaar	Richmond	Spano
Moore	Roby	Stanton
Morelle	Rodgers (WA)	Stauber
Moulton	Rogers (AL)	Stefanik
Mucarsel-Powell	Rogers (KY)	Steil
Murphy (FL)	Rose (NY)	Stevens
Nadler	Rose, John W.	Stewart
Napolitano	Rouda	Suozzi
Neal	Rouzer	Swalwell (CA)
Neguse	Roybal-Allard	Takano
Newhouse	Ruiz	Taylor
Norcross	Ruppersberger	Thompson (CA)
Norton	Rush	Thompson (MS)
Nunes	Rutherford	Thompson (PA)
O'Halleran	Sablan	Thornberry
Ocasio-Cortez	San Nicolas	Timmons
Olson	Sánchez	Tipton
Omar	Sarbanes	Titus
Palazzo	Scalise	Tlaib
Pallone	Scanlon	Tonko
Palmer	Schakowsky	Torres (CA)
Panetta	Schiff	Torres Small (NM)
Pappas	Schneider	Trahan
Pascrell	Schrader	Trone
Payne	Schrier	Turner
Pence	Schweikert	Underwood
Perlmutter	Scott (VA)	Upton
Perry	Scott, Austin	Van Drew
Peters	Scott, David	Vargas
Peterson	Sensenbrenner	Veasey
Phillips	Serrano	Vela
Pingree	Sewell (AL)	Velázquez
Plaskett	Shalala	Visclosky
Pocan	Sherman	Wagner
Porter	Sherrill	Walberg
Posey	Shimkus	Walden
Pressley	Simpson	Walorski
Price (NC)	Sires	Waltz
Quigley	Slotkin	Wasserman Schultz
Raskin	Smith (MO)	Waters
Ratcliffe	Smith (NJ)	Watkins
Reed	Smith (WA)	Watson Coleman
Reschenthaler	Smucker	Webster (FL)
Rice (NY)	Soto	Wenstrup
Richmond	Spanberger	Westerman
Roby	Spano	Wexton
Rodgers (WA)	Stanton	Wild
Rogers (AL)	Stauber	Wilson (FL)
Rogers (KY)	Stefanik	Wilson (SC)
Rose (NY)	Steil	Wittman
Rose, John W.	Stevens	Womack
Rouda	Stewart	Woodall
Rouzer	Suozzi	Yarmuth
Roybal-Allard	Swalwell (CA)	Young
Ruiz	Takano	Zeldin
Ruppersberger	Taylor	
Rush	Thompson (CA)	
Rutherford	Thompson (MS)	
Sablan	Thompson (PA)	
San Nicolas	Thornberry	
Sánchez	Timmons	
Sarbanes	Tipton	
Scalise	Titus	
Scanlon	Tlaib	
Schakowsky	Tonko	
Schiff	Torres (CA)	
Schneider	Torres Small (NM)	
Schrader	Trahan	
Schrier	Trone	
Schweikert	Turner	
Scott (VA)	Underwood	
Scott, Austin	Upton	
Scott, David	Van Drew	
Sensenbrenner	Vargas	
Serrano	Veasey	
Sewell (AL)	Vela	
Shalala	Velázquez	
Sherman	Visclosky	
Sherrill	Wagner	
Shimkus	Walberg	
Simpson	Walden	
Sires	Walorski	
Slotkin	Waltz	
Smith (MO)	Wasserman Schultz	
Smith (NJ)	Waters	
Smith (WA)	Watkins	
Smucker	Watson Coleman	
Soto	Webster (FL)	
Spanberger	Wenstrup	
Spano	Westerman	
Stanton	Wexton	
Stauber	Wild	
Stefanik	Wilson (FL)	
Steil	Wilson (SC)	
Stevens	Wittman	
Stewart	Womack	
Suozzi	Woodall	
Swalwell (CA)	Yarmuth	
Takano	Young	
Taylor	Zeldin	
Thompson (CA)		
Thompson (MS)		
Thompson (PA)		
Thornberry		
Timmons		
Tipton		
Titus		
Tlaib		
Tonko		
Torres (CA)		
Torres Small (NM)		
Trahan		
Trone		
Turner		
Underwood		
Upton		
Van Drew		
Vargas		
Veasey		
Vela		
Velázquez		
Visclosky		
Wagner		
Walberg		
Walden		
Walorski		
Waltz		
Wasserman Schultz		
Waters		
Watkins		
Watson Coleman		
Webster (FL)		
Wenstrup		
Westerman		
Wexton		
Wild		
Wilson (FL)		
Wilson (SC)		
Wittman		
Womack		
Woodall		
Yarmuth		
Young		
Zeldin		

NOES—38

Abraham	Flores	Mooney (WV)
Amash	Gaetz	Norman
Arrington	Gohmert	Rice (SC)
Babin	Gooden	Riggleman
Biggs	Gosar	Roy
Bishop (NC)	Griffith	Smith (NE)
Brooks (AL)	Harris	Steube
Burchett	Huizenga	Walker
Cline	Jordan	Weber (TX)
Cloud	King (IA)	Williams
Davidson (OH)	Marchant	Wright
Duncan	Massie	Yoho
Ferguson	McClintock	

NOT VOTING—21

Buck	Kinzinger	Radewagen
Byrne	Kirkpatrick	Roe, David P.
Gabbard	Lewis	Rooney (FL)
Hastings	Loudermilk	Ryan
Heck	Luria	Speier
Higgins (LA)	Mullin	Stivers
Kelly (MS)	Murphy (NC)	Welch

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1844

Mr. STEUBE changed his vote from ''aye'' to ''no.''

The amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIR (Mr. VEASEY). There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. DEGETTE) having assumed the chair, Mr. VEASEY, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3621) to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, and for other purposes, and, pursuant to House Resolution 811, he reported the bill, as amended by that resolution, back to the House with sundry further amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any further amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT

Mr. HILL of Arkansas. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HILL of Arkansas. I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hill of Arkansas moves to recommit the bill H.R. 3621 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

Page 161, line 2, strike ''; and'' and insert after such line the following:

''(c) LIMITATION WITH RESPECT TO PROTECTED EXPRESSIONS.—The Bureau may not require, as a condition for a credit scoring model to satisfy the standards established under subsection (a) or as a condition for determining a credit scoring model is appropriate under subsection (b), that a credit

scoring model make use of information related to political opinions, religious expression, or other expression protected by the First Amendment, whether obtained from a social media account of a consumer or other sources.''; and

Mr. HILL of Arkansas (during the reading). Madam Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas is recognized for 5 minutes in support of his motion.

Mr. HILL of Arkansas. Madam Speaker, let me start by saying the spirit of this bill is noble. Finding ways to ensure that all Americans, no matter of race, creed, color, or ZIP Code, have access to affordable credit is a noble pursuit. It is a top priority of the House Financial Services Committee.

In fact, Madam Speaker, it is a personal priority. I have introduced H.R. 4231 that has bipartisan and bicameral support. It facilitates the use of additional data from rental, utility, and telecom payments to help more Americans repair and build their credit score. Thousands more would qualify and have better access to credit.

The reality is that, while this is an issue that faces all Americans, it is communities of color that overwhelmingly face the greatest obstacles when it comes to obtaining access to affordable credit.

Legislating is difficult. It requires good faith negotiation, compromise, and a willingness to take a small degree of political risk that occasionally makes our political lives a little more complicated.

Messaging, Madam Speaker, on the other hand, is easy. It only requires the inherent power of the majority.

There was a bipartisan path that could have been taken, but today, House Democrats chose to detour down the messaging-only path.

With a vote today, the majority is, sadly, seeking to socialize credit, consumer credit ratings, and credit risk. This will jeopardize access to credit for millions of low-income and moderate-income families.

This legislation will inhibit lenders' ability to get the full picture of a consumer's financial health, making risk more difficult to assess. This ultimately increases the cost and decreases the availability for our consumers.

The good news is, Madam Speaker, that Republicans will stand united in opposition to a government takeover of our credit bureaus.

Today, the majority in Congress seeks to socialize our credit system by having credit scoring and credit scoring models taken over by the government, specifically, the unaccountable Consumer Financial Protection Bureau. However, I hope that we can all come together on one major principle.

My amendment will not kill the bill or send it back to committee. It will ensure that we do not allow Federal agencies to pick winners and losers based on political, religious, or other beliefs protected by our Constitution.

Specifically, my friends, we need to ensure that the CFPB does not exploit this newfound power and punish Americans based on their heartfelt First Amendment rights. Simply put, my motion to recommit will prohibit the CFPB from requiring credit scoring models from using information related to Americans' political opinions, their religious beliefs, or other expression that is protected by the First Amendment.

Let's make certain, my friends, that the United States Government doesn't use the tactics now made so popular in Beijing.

In China, Madam Speaker, agencies are collecting enormous amounts of data related to individual financing, social media accounts, health records, and facial recognition. In China, my friends, now we have the social score. It permits rewards and punishments based on each individual's social score.

For example, if you have a higher social score, you might get a discount on your monthly energy bill. If you have a lower score, you might not be able to get on that train or airplane.

According to the Chinese Government, all social scores for 1.4 billion Chinese will be made publicly available this year.

American ideals go against everything the social credit system represents. Supporting this MTR would ensure what is happening in China will never happen in our country.

The CFPB has too much power, and we should make sure that Americans do not lose access to credit based on the decisions of an unaccountable organization. This unaccountable organization has a history of overstepping its bounds.

As policymakers, we need to support measures that increase access to affordable credit and increase accuracy and security of the consumer credit information while remedying concerns about the existing system.

This legislation undermines the fundamental strengths of that credit reporting system and makes it more difficult, more expensive, for lenders to analyze the credit risk of our friends and neighbors across this country.

The United States has the best financial system in the world. I urge my colleagues to vote ''yes'' on this motion to recommit; vote ''no'' on the underlying bill. Help maintain the United States as the most competitive consumer finance system in the world. And I would urge my friends, there is a right way to vote on this MTR and there is a Huawei to vote on this MTR.

Madam Speaker, I yield back the balance of my time.

Mrs. BEATTY. Madam Speaker, I rise to claim the time in opposition.

The SPEAKER pro tempore. The gentlewoman from Ohio is recognized for 5 minutes.

Mrs. BEATTY. Madam Speaker, the current credit reporting system is broken and does not work for consumers, nor does this motion to recommit.

Madam Speaker, I am going to take a few moments to address what my colleague just said, to address his jangling discords of words.

Today, they are trying to slow down this bill. We have had four hearings, two markups in this Congress alone. Never once did this come up. And now they want to make it about false fears? Now they want to make it about free speech and China?

Let me tell you something: We don't have free speech when credit bureaus own our information and it is wrong.

Madam Speaker, the current credit reporting system is rigged in favor of the credit reporting agencies, plain and simple. They have all the power. They are accountable to no one. Ordinary American consumers are not their customers but their products.

In 2017, Madam Speaker, one of the three credit reporting bureaus, Equifax, exposed personal information of more than 148 million Americans—nearly half the country—in the largest data breach ever, and there was nothing that our constituents could have done about it to protect or stop their sensitive personal information from being exposed.

Even the ranking member of the Financial Services Committee admits that the system is broken. But what was the response of my Republican majority colleagues in 2017 when the American people found out that their data was breached?

Did they bring any legislation to the floor to address it? Did they bring anything to fix it? No.

Instead, they tried to repeal protections for people with preexisting conditions in affordable healthcare. Instead, they passed massive tax cuts for the 1 percent.

Well, there is a new Democratic majority in this Congress, and we are acting to fix this broken system with the Comprehensive CREDIT Act.

I thank Congresswoman MAXINE WATERS.

There are few numbers as important to an individual as their credit score. Whether you are applying for a home loan, an auto loan, a credit card, or even applying for a job, a credit score plays a crucial role in the financial lives of all Americans.

Despite its importance, the system is broken. The FTC found that 42 million consumers had errors found in their credit reports, and the Consumer Financial Protection Bureau's complaint database shows that the number one topic by consumers, 39 percent of all complaints, was consumers reporting errors.

Do the credit reporting companies care? No, they do not. Why should they? There is no incentive for them to care, because the consumers have no say.

This package of bills would fundamentally overhaul the broken system and give the power over credit files

back to the consumers where it belongs. This package of bills is For the People.

Madam Speaker, I stand with Congresswoman AYANNA PRESSLEY and her bill to remove predatory private education loan information from credit files.

I stand with Congresswoman TLAIB and her bill to prohibit medical debt to be reported to credit bureaus for 1 year.

I stand with Congressman LYNCH and his bill to give regulators oversight over credit scoring models.

I stand with Congressman LAWSON and his bill to ensure employers don't use credit files to discriminate in hiring decisions.

I stand with Congresswoman ADAMS and her bill to put the power to dispute credit inaccuracies back into the hands of consumers.

And I stand for my bill to give consumers free access to their credit scores directly from the three national credit reporting agencies, with no strings attached.

Madam Speaker, I urge my colleagues to stand with us, stand with the consumers. Support us and your constituents. Vote ''yes'' for this bill and ''no'' on the MTR.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HILL of Arkansas. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 5-minute vote on the motion to recommit will be followed by 5-minute votes on passage of the bill, if ordered, and the motion to suspend the rules and pass S. 3201.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 201, nays 208, not voting 20, as follows:

[Roll No. 30]

YEAS—201

Abraham
Aderholt
Allen
Amash
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bergman
Biggs
Bilirakis
Bishop (NC)
Bishop (UT)
Bost
Brady
Brindisi
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Budd
Burchett
Burgess
Calvert
Carter (GA)
Carter (TX)
Case
Chabot
Cheney
Cline
Cloud
Cole
Collins (GA)
Comer
Conaway
Cook
Craig
Crawford
Crenshaw
Cunningham
Curtis
Davidson (OH)
Davis, Rodney
DesJarlais
Diaz-Balart
Duncan
Dunn
Emmer
Estes
Ferguson
Finkenauer
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx (NC)
Fulcher
Gaetz
Gallagher
Gianforte
Gibbs
Gohmert
Golden
Gonzalez (OH)
Gooden
Gosar
Gottheimer
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Hartzler
Hern, Kevin
Herrera Beutler
Hice (GA)
Hill (AR)
Holding
Hollingsworth
Horn, Kendra S.
Houlahan
Hudson
Huizenga
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (PA)
King (IA)
King (NY)
Kustoff (TN)
LaHood
LaMalfa
Lamb
Lamborn
Latta
Lesko
Lipinski
Long
Lucas
Luetkemeyer
Marchant
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
Meuser
Miller
Mitchell
Moolenaar
Mooney (WV)
Newhouse
Norman
Nunes
Olson
Palazzo
Palmer
Pence
Perry
Peterson
Posey
Ratcliffe
Reed
Reschenthaler
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose (NY)
Rose, John W.
Rouzer
Roy
Rutherford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Shimkus
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spanberger
Spano
Stauber
Stefanik
Steil
Steube
Stewart
Taylor
Thompson (PA)
Thornberry
Timmons
Tipton
Turner
Upton
Van Drew
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Watkins
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Wild
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho
Young
Zeldin

NAYS—208

Adams
Aguilar
Allred
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Casten (IL)
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Cisneros
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Cox (CA)
Crist
Crow
Cuellar
Davids (KS)
Davis (CA)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Engel
Escobar
Eshoo
Espaillat
Evans
Fletcher
Foster
Frankel
Fudge
Gallego
Garamendi
García (IL)
Garcia (TX)
Gomez
Gonzalez (TX)
Green, Al (TX)
Grijalva
Haaland
Harder (CA)
Hayes
Higgins (NY)
Himes
Horsford
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Levin (CA)
Levin (MI)
Lieu, Ted
Loebsack
Lofgren
Lowenthal
Lowey
Luján
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Matsui
McAdams
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rouda
Roybal-Allard
Ruiz
Ruppersberger
Rush
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shalala
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Stanton
Stevens
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wilson (FL)
Yarmuth

NOT VOTING—20

Buck
Byrne
Gabbard
Hastings
Heck
Higgins (LA)
Kelly (MS)
Kinzinger
Kirkpatrick
Lewis
Loudermilk
Luria
Meadows
Mullin
Murphy (NC)
Roe, David P.
Rooney (FL)
Ryan
Speier
Stivers

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1905

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCHENRY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 221, nays 189, not voting 19, as follows:

[Roll No. 31]

YEAS—221

Adams
Aguilar
Allred
Axne
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brindisi
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Carbajal
Cárdenas
Carson (IN)
Cartwright
Casten (IL)
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Cisneros
Clark (MA)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly
Cooper
Correa
Costa
Courtney
Cox (CA)
Craig
Crist
Crow
Cuellar
Cunningham
Davids (KS)
Davis (CA)
Davis, Danny K.
Dean
DeFazio
DeGette
DeLauro
DelBene
Delgado
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Engel
Escobar
Eshoo
Espaillat
Evans
Finkenauer
Fletcher
Foster
Frankel
Fudge
Gallego
Garamendi
García (IL)
Garcia (TX)
Golden
Gomez
Gonzalez (TX)
Gottheimer
Green, Al (TX)
Grijalva
Haaland
Harder (CA)
Hayes
Higgins (NY)
Himes
Horn, Kendra S.
Horsford
Houlahan
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson (TX)
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kildee
Kilmer
Kim
Kind
Krishnamoorthi

Kuster (NH)
Lamb
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee (CA)
Lee (NV)
Levin (CA)
Levin (MI)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Luján
Lynch
Malinowski
Maloney, Carolyn B.
Maloney, Sean
Matsui
McAdams
McBath
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Nadler
Napolitano
Neal
Neguse
Norcross
O'Halleran
Ocasio-Cortez
Omar
Pallone
Panetta
Pappas
Pascrell
Payne
Perlmutter
Peters
Phillips
Pingree
Pocan
Porter
Pressley
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rose (NY)
Rouda
Roybal-Allard
Ruiz
Ruppersberger
Rush
Sánchez
Sarbanes
Scanlon
Schakowsky
Schiff
Schneider
Schrader
Schrier
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shalala
Sherman
Sherrill
Sires
Slotkin
Smith (WA)
Soto
Spanberger
Stanton
Stevens
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Underwood
Vargas
Veasey
Vela
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson Coleman
Welch
Wexton
Wild
Wilson (FL)
Yarmuth

NAYS—189

Abraham
Aderholt
Allen
Amash
Amodei
Armstrong
Arrington
Babin
Bacon
Baird
Balderson
Banks
Barr
Bergman
Biggs
Bilirakis
Bishop (NC)
Bishop (UT)
Bost
Brady
Brooks (AL)
Brooks (IN)
Buchanan
Bucshon
Budd
Burchett
Burgess
Calvert
Carter (GA)
Carter (TX)
Case
Chabot
Cheney
Cline
Cloud
Cole
Collins (GA)
Comer
Conaway
Cook
Crawford
Crenshaw
Curtis
Davidson (OH)
Davis, Rodney
DesJarlais
Diaz-Balart
Duncan
Dunn
Emmer
Estes
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx (NC)
Fulcher
Gaetz
Gallagher
Gianforte
Gibbs
Gohmert
Gonzalez (OH)
Gooden
Gosar
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harris
Hartzler
Hern, Kevin
Herrera Beutler
Hice (GA)
Hill (AR)
Holding
Hollingsworth
Hudson
Huizenga
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keller
Kelly (PA)
King (IA)
King (NY)
Kustoff (TN)
LaHood
LaMalfa
Lamborn
Latta
Lesko
Long
Lucas
Luetkemeyer
Marchant
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
Meadows
Meuser
Miller
Mitchell
Moolenaar
Mooney (WV)
Newhouse
Norman
Nunes
Olson
Palazzo
Palmer
Pence
Perry
Peterson
Posey
Ratcliffe
Reed
Reschenthaler
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose, John W.
Rouzer
Roy
Rutherford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Shimkus
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Spano
Stauber
Stefanik
Steil
Steube
Stewart
Taylor
Thompson (PA)
Thornberry
Timmons
Tipton
Turner
Upton
Van Drew
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Watkins
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho
Young
Zeldin

NOT VOTING—19

Buck
Byrne
Gabbard
Hastings
Heck
Higgins (LA)
Kelly (MS)
Kinzinger
Kirkpatrick
Lewis
Loudermilk
Luria
Mullin
Murphy (NC)
Roe, David P.
Rooney (FL)
Ryan
Speier
Stivers

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1912

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TEMPORARY REAUTHORIZATION AND STUDY OF THE EMERGENCY SCHEDULING OF FENTANYL ANALOGUES ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (S. 3201) to extend the temporary scheduling order for fentanyl-related substances, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New Hampshire (Ms. KUSTER) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 320, nays 88, not voting 21, as follows:

[Roll No. 32]

YEAS—320

Abraham
Adams
Aderholt
Aguilar
Allen
Allred
Amodei
Armstrong
Arrington
Axne
Babin
Bacon
Baird
Balderson
Banks
Barr
Barragán
Bera
Bergman
Beyer
Biggs
Bilirakis
Bishop (GA)
Bishop (NC)
Bishop (UT)
Blunt Rochester
Bost
Brady
Brindisi
Brooks (AL)
Brooks (IN)
Brown (MD)
Brownley (CA)
Buchanan
Bucshon
Budd
Burchett
Burgess
Bustos
Butterfield
Calvert
Carbajal
Carter (GA)
Carter (TX)
Cartwright
Case
Castor (FL)
Chabot
Cheney
Cicilline
Cisneros
Clark (MA)
Cline
Cloud
Cohen
Cole
Collins (GA)
Comer
Conaway
Connolly
Cook
Cooper
Costa
Courtney
Cox (CA)
Craig
Crawford
Crenshaw
Crist
Crow
Cuellar
Cunningham
Curtis
Davids (KS)
Davidson (OH)
Davis (CA)
Davis, Rodney
DeGette
DeLauro
DelBene
Delgado
Demings
DesJarlais
Deutch
Diaz-Balart
Dingell
Duncan
Dunn
Emmer
Eshoo
Estes
Ferguson
Finkenauer
Fitzpatrick
Fleischmann
Fletcher
Flores
Fortenberry
Foxx (NC)
Frankel
Fulcher
Gaetz
Gallagher
Garamendi
Gianforte
Gibbs
Gohmert
Golden
Gonzalez (TX)
Gooden
Gosar
Gottheimer
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green (TN)
Griffith
Grothman
Guest
Guthrie
Hagedorn
Harder (CA)
Harris
Hartzler
Hayes
Hern, Kevin
Herrera Beutler
Hice (GA)
Higgins (NY)
Hill (AR)
Himes
Holding
Hollingsworth
Horn, Kendra S.
Houlahan
Hoyer
Hudson
Huizenga
Hurd (TX)
Johnson (LA)
Johnson (OH)
Johnson (SD)
Johnson (TX)
Jordan
Joyce (OH)
Joyce (PA)
Katko
Keating
Keller
Kelly (PA)
Kilmer
Kim
Kind
King (IA)
King (NY)
Krishnamoorthi
Kuster (NH)
Kustoff (TN)
LaHood
LaMalfa
Lamb
Lamborn
Langevin
Larsen (WA)
Larson (CT)
Latta
Lawson (FL)
Lee (NV)
Lesko
Levin (CA)
Lipinski
Loebsack
Long
Lowey
Lucas
Luetkemeyer
Luján
Lynch
Malinowski
Maloney, Sean
Marchant
Marshall
Mast
Matsui
McAdams
McBath
McCarthy
McCaul
McClintock
McHenry
McKinley
McNerney
Meuser
Miller
Mitchell
Moolenaar
Mooney (WV)
Moore
Morelle
Moulton
Mucarsel-Powell
Murphy (FL)
Napolitano
Neal
Neguse
Newhouse
Norcross
Norman
Nunes
O'Halleran
Olson
Palazzo
Pallone
Palmer
Panetta
Pappas
Pascrell
Pence
Perlmutter
Perry
Peters
Peterson
Phillips
Pingree
Porter
Posey
Price (NC)
Quigley
Ratcliffe
Reed
Reschenthaler
Rice (NY)
Rice (SC)
Riggleman
Roby
Rodgers (WA)
Rogers (AL)
Rogers (KY)
Rose (NY)
Rose, John W.
Rouda
Rouzer
Roy
Roybal-Allard
Ruiz
Ruppersberger
Rutherford
Sarbanes
Scalise
Schiff
Schrader
Schrier
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Shalala
Sherrill
Shimkus
Simpson
Sires
Slotkin
Smith (MO)
Smith (NE)
Smith (NJ)
Smucker
Soto
Spanberger
Spano
Stanton
Stauber
Stefanik
Steil
Steube
Stevens
Stewart
Suozzi
Swalwell (CA)
Taylor
Thompson (CA)
Thompson (PA)
Thornberry
Timmons
Tipton
Titus
Tlaib
Tonko
Torres (CA)
Torres Small (NM)
Trahan
Trone
Turner
Upton
Van Drew
Vela
Visclosky
Wagner
Walberg
Walden
Walker
Walorski
Waltz
Wasserman Schultz
Watkins
Weber (TX)
Webster (FL)
Welch
Wenstrup
Westerman
Wild
Williams
Wilson (SC)
Wittman
Womack
Woodall
Wright
Yoho
Young
Zeldin

NAYS—88

Amash
Bass
Beatty
Blumenauer
Bonamici
Boyle, Brendan F.
Cárdenas
Carson (IN)
Casten (IL)
Castro (TX)
Chu, Judy
Clarke (NY)
Clay
Cleaver
Clyburn
Correa
Davis, Danny K.
Dean
DeFazio
DeSaulnier
Doggett
Doyle, Michael F.
Engel
Escobar
Espaillat
Evans
Foster
Fudge
Gallego
Garcia (IL)
Garcia (TX)
Gomez
Green, Al (TX)
Grijalva
Haaland
Horsford
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Kaptur
Kelly (IL)
Kennedy
Khanna
Kildee
Lawrence
Lee (CA)
Levin (MI)
Lieu, Ted
Lofgren
Lowenthal
Maloney, Carolyn B.
Massie
McCollum
McEachin
McGovern
Meeks
Meng
Nadler
Ocasio-Cortez
Omar
Payne
Pocan
Pressley
Raskin
Richmond
Rush
Sánchez

Scanlon	Smith (WA)	Waters
Schakowsky	Takano	Watson Coleman
Schneider	Thompson (MS)	Wexton
Scott (VA)	Underwood	Wilson (FL)
Serrano	Vargas	Yarmuth
Sewell (AL)	Veasey	
Sherman	Velázquez	

NOT VOTING—21

Buck	Kelly (MS)	Mullin
Byrne	Kinzinger	Murphy (NC)
Gabbard	Kirkpatrick	Roe, David P.
Gonzalez (OH)	Lewis	Rooney (FL)
Hastings	Loudermilk	Ryan
Heck	Luria	Speier
Higgins (LA)	Meadows	Stivers

□ 1920

Ms. MCCOLLUM changed her vote from ''yea'' to ''nay.''

Ms. BLUNT ROCHESTER changed her vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. BROWN of Maryland. Madam Speaker, during rollcall Vote number 32 on S. 3201, I mistakenly recorded my vote as Yes when I should have voted Nay.

Ms. TLAIB. Madam Speaker, during Roll Call Vote number 32 on S. 3201, I mistakenly recorded my vote as ''yes'' when I should have voted ''no''.

PERSONAL EXPLANATION

Mrs. KIRKPATRICK. Madam Speaker, I was absent today due to a medical emergency. Had I been present, I would have voted: ''yea'' on Roll Call No. 28, ''yea'' on Roll Call No. 29, ''no'' on Roll Call No. 30, ''yea'' on Roll Call No. 31, and ''yea'' on Roll Call No. 32.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Ms. MCCOLLUM) laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 29, 2020.

Hon. NANCY PELOSI,
Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on January 29, 2020, at 5:20 p.m., and said to contain a message from the President in accordance with section 904 of title IX of the United States-Mexico-Canada Agreement Implementation Act.

With best wishes, I am,

Sincerely,

CHERYL L. JOHNSON,
Clerk of the House.

DESIGNATION OF FUNDING AS AN EMERGENCY REQUIREMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 116–96)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on the Budget and ordered to be printed:

To the Congress of the United States:

In accordance with section 904 of title IX of the United States-Mexico-Canada Agreement Implementation Act (H.R. 5430; the ''Act''), I hereby designate as emergency requirements all funding so designated by the Congress in the Act pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as outlined in the enclosed list of accounts.

The details of this action are set forth in the enclosed memorandum from the Acting Director of the Office of Management and Budget.

DONALD J. TRUMP.
THE WHITE HOUSE, *January 29, 2020.*

HONORING THE LIFE AND SERVICE OF LINDA COZZEN

(Mr. VEASEY asked and was given permission to address the House for 1 minute.)

Mr. VEASEY. Madam Speaker, today I rise to commemorate and dedicate this time to one of our local activists in Tarrant County, Linda Cozzen, who was a great friend of mine.

Linda was born in Canada and became a U.S. citizen at the age of 8 when her grandparents immigrated to the United States.

Linda and her brother were orphans, and their entry into the country in Texas would not have been possible were it not for the great work of the President and Senator from Texas, Lyndon Johnson, who was one of her heroes. President Johnson had a huge impact on Linda's life, which is one of the reasons why she was so active in politics in Fort Worth and Tarrant County.

Over the years, she served on a lot of different committees: The 820 Corridor Democratic Club, the Southwest Democratic Club, Tarrant County Democratic Party, Tarrant County Democratic Club, League of Women Voters. She was a precinct chair, and so many others for over 20 years.

She also served as campaign manager for numerous candidates in local and State elections. And she was a proud alumna of Texas Christian University also in Fort Worth, TCU.

Ms. Cozzen's story highlights the importance of incorporating immigrants into our democracy and providing them with an opportunity to participate in our political system.

Linda was a great friend, and someone who always just had encouraging words for me and so many others. She was at literally every single Democratic event in Tarrant County.

It has really been a sad week when everybody found out about her untimely passing, and our blessings go out to her family and all of her friends who will miss her.

COMMEMORATING 250TH ANNIVERSARY OF BOTETOURT COUNTY, VIRGINIA

(Mr. CLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINE. Madam Speaker, I rise today to recognize the 250th anniversary of Botetourt County, Virginia. When initially founded, Botetourt County extended far and wide, all the way to the banks of the Mississippi River, and encompassed portions of seven present-day States.

Named for Royal Governor Norborne Berkeley, Lord Botetourt, this scenic county serves as a gateway from the Shenandoah Valley into southwest Virginia.

As you walk through the quaint towns within the county's borders, you are filled with a sense of awe, not only because of its beauty, but because of the history that surrounds you.

Thomas Jefferson famously designed an earlier version of the county courthouse in the town of Fincastle, and Lewis and Clark departed on their great expedition westward from within Botetourt County.

Even after exploring the vast western expanse of America, William Clark returned to marry county resident, Judith Hancock, following his journey.

Just as the James River flows through Botetourt County, our citizens will continue to carve out their path toward prosperity with excitement and hope in the centuries to come.

Madam Speaker, may God continue to bless Botetourt County.

HONORING THE MEMORY OF MADISON ELIZABETH WEGENER

(Ms. SLOTKIN asked and was given permission to address the House for 1 minute.)

Ms. SLOTKIN. Mr. Speaker, I rise today to recognize the life of Madison Elizabeth Wegener of Brighton, Michigan, who was 14 when she passed away last Tuesday.

When she was six, Maddie was diagnosed with a rare degenerative disease that currently has no cure.

From all accounts, Maddie was a vivacious and adventurous young woman. She loved Great Danes, taking walks in the woods, and making maple syrup at her grandparents' farm.

Because of her illness, Maddie became an advocate for organ donation at a young age. In her selflessness, upon her death, Maddie was able to save four lives, and also provide the gift of sight through her organ donations. Think about that.

Maddie's generosity of spirit sets a powerful example, as her legacy will live on in her family, in her community, and in those that she helped save.

Maddie was just a freshman at Brighton High School, where her mother teaches English.

I had the privilege to attend the Brighton-Howell basketball game 10

days ago. The students were asked to come onto the court during half time to make a donation and take a free throw for Maddie. Students from both schools, from every social circle, walked onto that court to support her family.

I know that the Brighton community has rallied around her family and today is mourning her loss. Our hearts are with her family as we honor and celebrate the life of this remarkable young woman.

□ 1930

RECOGNIZING ELENI CHRISTOPOULOS

(Mr. BURCHETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURCHETT. Mr. Speaker, I rise today to recognize Knoxville Catholic High School senior Eleni Christopoulos. Eleni has earned the Girl Scout Gold Award and was recently named to Knox.biz's 20 Under 20 class.

When Eleni was born, she had a serious infection that needed specialized medical care. Fortunately, she overcame her illness, but she knows that not every sick child will get the same outcome. The experience inspired Eleni to start a program at East Tennessee Children's Hospital to comfort families whose children pass away in the neonatal intensive care unit.

Eleni builds and hand-paints memory boxes for grieving families to store cherished keepsakes like photos and footprints. While it is impossible to ease the pain of a lost child, Eleni's memory boxes offer the families a small comfort during a difficult time.

We don't hear enough about our young folks giving back to their communities and taking the initiative to help others, so I congratulate Eleni for making a meaningful difference in the Knoxville community and for being recognized as a young leader in the 20 Under 20 class.

Eleni has a bright future ahead of her, Mr. Speaker, and I know her grandparents and her mom and dad, and they are very proud, as I am.

CONGRATULATING RANKY TANKY ON WINNING A GRAMMY AWARD

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Madam Speaker, I am proud to rise today to congratulate Charleston's very own Ranky Tanky for winning a Grammy for Best Regional Roots Music Album.

Ranky Tanky was formed in 2016, made their Lowcountry debut in April 2017, and have since issued two albums and toured the world. Despite touring the world and going around the U.S. and playing, they have never forgotten their hometown of Charleston and their Lowcountry roots.

The Gullah culture is a vital part of the Lowcountry and our history. It is in the food we eat and the music we love. Ranky Tanky has shared Gullah tradition with the entire world, and for that, we owe them a debt of gratitude.

Congrats to Quentin, Kevin, Quiana, Clay, and Charlton. I am sure that this journey feels like it has been a fairytale, but I assure them that they are just getting started.

HONORING THE LIFE OF BRIAN KELLY

(Mr. RODNEY DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODNEY DAVIS of Illinois. Madam Speaker, I rise today to honor the life of my friend Brian Kelly, who passed away on Tuesday, January 21, at 1:21 a.m., after a long and courageous battle with brain cancer.

I first met Brian when we were congressional staffers together in central Illinois. He was infectious to be around with his positive attitude and his perpetual optimism to always help others. We bonded over our mutual friends and experiences in his hometown of Vandalia, Illinois.

Brian was the epitome of what a public servant should strive to be, putting everyone else above himself, even during his fight against this deadly disease. After diagnosis, when I would see him, the smile and accompanying laughs made us sometimes forget the pain that he and his wife, Megan, were experiencing when none of us were around.

Madam Speaker, my friend Brian has no more need to fight, but knowing that does not make it any easier on his loved ones who lost him too soon. My heartfelt prayers go out to his lovely wife, Megan, and the entire Kelly family and all those who were lucky, like me, to know such a kind soul.

RECOGNIZING RUSSELL ''ROOSTER'' VALENTI

(Ms. WILD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WILD. Madam Speaker, I rise to recognize an extraordinary constituent, a man who, in my community, is known only as Rooster. He really needs no other name, but his given name is Russell Valentini.

Rooster has worked in the Allentown School District for a very long time. His title with the Allentown School District is Home and School Visitor, but it fails to capture the world of difference he has made in the lives of homeless children and families.

For 35 years, Rooster has served as the lifeline for the 600 to 800 students experiencing homelessness in the Allentown School District at any given time. The poems he has written over the years about the children he has encountered reflect the ways that the children have touched his life and in which he has touched theirs.

Even now, Rooster still grows emotional when telling the story of the father who doesn't know if he will be able to get his paycheck in time to make the rent, the family who has lost their home, the child with no bed to sleep in at night.

Rooster, for these many years, has provided school supplies, uniforms, and hygiene items, as well as food, to help these students and their families.

Everywhere in my community there are people whose lives are immeasurably better today because of Rooster.

Rooster prepares to retire at the end of this school year, and I want to congratulate him. We will miss him. We should all draw inspiration from the powerful example he has set.

RECOGNIZING DEMARKUS BOWMAN, MR. FOOTBALL

(Mr. SPANO asked and was given permission to address the House for 1 minute.)

Mr. SPANO. Madam Speaker, I rise today to recognize Lakeland High School's Demarkus Bowman, who was recently named Florida's Mr. Football.

After finishing runner-up last year, Demarkus beat out the competition this year, having run for over 1,600 yards and 24 touchdowns in only 11 games. As a unanimous 5-star running back and the number 16 overall player in the Nation, Demarkus will be taking his talent next season to Clemson University.

Not only is Demarkus a star football player, but Demarkus also excels in track. More importantly, Demarkus is a young man with a grateful heart who is supported by a devoted family and friends.

I am proud of Demarkus and all his Dreadnaught teammates who represent our district so well. Not only do I celebrate their accomplishments on the field, but I also look forward to seeing them take on the mantle of leadership in their generation.

RECOGNIZING JAMES GREGORIUS

(Mr. CARTER of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER of Georgia. Madam Speaker, I rise today to recognize Mr. James Gregorius, the associate director for training at the Federal Law Enforcement Training Center, FLETC, who will be retiring this week after more than 40 years of public service.

Mr. Gregorius began his career in law enforcement as a police officer with the Montgomery County, Maryland, Police Department. From there, he transitioned to Federal policing, where he served as a special agent within both the Drug Enforcement Administration as well as the National Security Agency.

This experience and this expertise positioned him perfectly for a high-level career with the Federal Law Enforcement Training Center, which is headquartered in the First Congressional District of Georgia. During James' time there, he did an exceptional job of managing training operations in Georgia, New Mexico, South Carolina, and the D.C. metropolitan area.

Madam Speaker, I thank Mr. Gregorius for his service to our country and congratulate him on his retirement.

James' presence, leadership, and expertise will all be missed.

RECOGNIZING THE HEROIC ACTION OF ODREN POLK

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Madam Speaker, today, it is my great pleasure to recognize the heroic action of Odren Polk, a resident of Williamsport, Pennsylvania, in our 12th Congressional District.

Affectionately referred to as ''Mr. O,'' Odren serves his community at Stevens Primary School through STEP AmeriCorps, a national service organization.

On what Odren described as an otherwise usual day in the cafeteria, Mr. O noticed one of the students choking on a grape tomato. Utilizing the first aid training he received at AmeriCorps, Mr. O jumped into action, dislodging the tomato from the student's airway and saving his life.

What Mr. O described as an automatic reaction was possible only because of the training he received at AmeriCorps.

AmeriCorps is a network of national service programs that seeks to improve lives and foster civic engagement. Approximately 75,000 Americans across the country serve their community through AmeriCorps each year.

AmeriCorps members also receive training that prepares them to serve their communities after their AmeriCorps is completed. As in the case with Mr. O, sometimes that training comes in handy sooner rather than later.

PROVIDING NEW EMPLOYMENT OPPORTUNITIES FOR ALL AMERICANS

(Mr. GUEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUEST. Madam Speaker, today, President Trump signed the historic United States-Mexico-Canada trade agreement and fulfilled a campaign promise to modernize trade with two of our largest trading partners.

The USMCA is projected to generate $68 billion in new economic activity and create over 175,000 new jobs for hardworking Americans.

President Trump and Republicans fought to complete the USMCA on behalf of American farmers, ranchers, manufacturers, and small business owners.

As a rural State with strong agricultural, manufacturing, and business sectors, Mississippi stands to benefit greatly from this agreement by expanding markets for high-quality Mississippi poultry and livestock and hundreds of manufacturing products.

This trade agreement will provide a boost to our economy that has grown significantly under Republican leadership and is another example of free market economic principles at work to provide new employment opportunities for all Americans.

WISHING THE KANSAS CITY CHIEFS LUCK IN THE SUPER BOWL

(Mr. MARSHALL asked and was given permission to address the House for 1 minute.)

Mr. MARSHALL. Madam Speaker, it seems like it was just yesterday when I sat down in my family living room with my dad to watch Super Bowl IV. It was an exciting game, watching Hank Stram strut up and down the sideline, Lenny Dawson completing long passes to Otis Taylor.

This weekend, after 50 years in the desert, the Chiefs are back at the Super Bowl. On behalf of the entire delegation, I want to wish Coach Reid and MVP Patrick Mahomes a great day, a great game, wishing that they all do their very best and bring back home that Lombardi Trophy.

HONORING JEAN FERNANDEZ

(Mr. LAMALFA asked and was given permission to address the House for 1 minute.)

Mr. LAMALFA. Madam Speaker, this past weekend was the 75th anniversary of the Battle of the Bulge of World War II in Europe.

I rise today to honor a great lady, Jean Fernandez, who is a veteran of that historic battle and turned 100 very recently.

Living to be 100 years old is an accomplishment on its own, but Jean's story is particularly remarkable.

Arriving after D-Day and before the Battle of the Bulge, Jean is one of the few women veterans who was actually able to serve in that role in our Nation during World War II.

During her time as a nurse at the 179th U.S. Army General Hospital at Rouen in northern France, the hospital was constantly under threat of air attack, and many of the young men she cared for were severely affected by shell shock.

Had it not been for the My Life, My Story program provided by the VA, Jean's story may not have ever been told.

I had the pleasure of stopping by and spending some time with her at her 100th birthday party up in Susanville, and I enjoyed hearing her recount her time in the military as well as her extraordinary life.

What a neat lady. She is an exceptional American, and I am very thankful for her service and really honored to have had a chance to get to know her and spend time with her.

□ 1945

REVIEWING IMPEACHMENT PROCESS

The SPEAKER pro tempore (Ms. SLOTKIN). Under the Speaker's announced policy of January 3, 2019, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes as the designee of the minority leader.

Mr. GOHMERT. Madam Speaker, it has been an interesting day.

I was down in the Senate earlier today. We have reciprocity with the Senate, so we can go onto the Senate floor. It is a very interesting experience, seeing a President who committed no crime, not even perjury, like President Clinton, having an attempt to remove him from office.

An article today by Brent Bozell says: ''One favorite tactic of our 'objective' media during the impeachment of President Donald Trump is to find a clip of the President's legal experts such as Ken Starr and Alan Dershowitz expressing an opinion during the 1998–99 impeachment of Bill Clinton and then show a contrast with the present day. But this is just as easily demonstrated with the press.

''It is not surprising that Democrats and Republicans favor or oppose impeachment based on the party of the President in the dock. It should be surprising that our supposedly nonpartisan journalists flip to whichever talking points are in use by the Democrats. That makes the press a gaggle of hypocrites.

''Back in 1998, Newsweek's Eleanor Clift spoke for the vast majority of the press from her chair on 'The McLaughlin Group.' Before the House voted to impeach Clinton, she warned, 'If the Republicans want to go ahead and do this, I think they disgrace themselves in a more profound way than President Clinton has by abusing the machinery of impeachment, knowing full well that the Senate will hold a sham trial and they will be, in effect, delivered of this ridiculous conclusion.'

''Over and over again, these network 'news' stars lamented that the House impeachment vote and the Senate impeachment trial of President Clinton were a 'sham' and a horrible 'distraction' from the people's business. They said small-minded Republican Clinton haters were obsessed with sex, and never mind the actual charges of perjury and obstruction of justice.''

Obstruction of justice, of course, being a crime and perjury being a crime, whereas obstruction of Congress is more in the nature of maladministration, which the Founders made

clear should not be a basis for impeachment.

''Then there was NBC's Matt Lauer, who brought on former House Speaker Jim Wright, who resigned in disgrace in 1989 over a corrupt scheme of selling crates of his books to lobbying groups.''

As I recall, there were restrictions on getting paid for speeches, so groups would buy thousands of his books that would sit in crates and go nowhere, in many cases, from what was said back then, as a way of getting around that. But he spoke with moral authority in response to Lauer.

''Lauer said: 'Speaker Wright, let me start with you. When you resigned 9 years ago, you had been battered by the right. You called for an end to what you called 'mindless cannibalism.' Nine years later, we are hearing terms like that again and others swirling around the impeachment of Bill Clinton. Have we learned nothing in 9 years?' ''

As the article says, one thing we all do know is Matt Lauer learned absolutely nothing from Bill Clinton about sexual harassment in the workplace. Rather interesting.

There was an article a week ago from Paul Sperry.

Like I say, I was down at the Senate earlier today, and I know the President's lawyers were asking people and their staff, Republicans, not to use the name people have referred to as being the whistleblower.

I have never named the whistleblower. I have named people who I believed were critical fact witnesses, and some in the media lambasted me and said: You named the whistleblower.

Well, I thought we didn't know who the whistleblower was. How do you know who the whistleblower was when I named him if we don't know who the whistleblower is, if you don't know who the whistleblower is?

Anyway, hypocrisy knows no bounds when it comes to some in the Washington media and some here in Congress. But in any event, the request is not to mention the name of the person, the leftwing activist who has been undermining and trying to destroy the Trump Presidency since President Trump got elected, commonly referred to as the whistleblower.

But the article by Paul Sperry says: ''Sources told RealClearInvestigations the staffer with whom'' this leftwing activist trying to destroy the Trump Presidency, also called the whistleblower, ''was speaking was Sean Misko. Both were Obama administration holdovers working in the Trump White House on foreign policy and national security issues. And both expressed anger over Trump's new 'America First' foreign policy, a sea change from President Obama's approach to international affairs.

'' 'Just days after he was sworn in, they were already talking about trying to get rid of him,' said a White House colleague who overheard their conversation. 'They weren't just bent on subverting his agenda,' the former official added. 'They were plotting to actually have him removed from office.' ''

Sean Misko ''left the White House last summer to join House impeachment manager ADAM SCHIFF's committee, where sources say he offered 'guidance' to the whistleblower, who has been officially identified only as an intelligence officer in a complaint against Trump filed under whistleblower laws. Misko then helped run the impeachment inquiry based on that complaint as a top investigator for congressional Democrats.''

That is in the Democrats' part of the Intelligence Committee.

The probe culminated in Trump's impeachment last month, and ''Schiff and other House Democrats last week delivered the Articles of Impeachment to the Senate and are now pressing the case for his removal during the trial, which began last Tuesday'' of last week.

''The coordination between the official believed to be the whistleblower and a key Democratic staffer, details of which are disclosed here for the first time, undercuts the narrative that impeachment developed spontaneously out of what Trump's Democratic antagonists call the 'patriotism' of an 'apolitical civil servant.'

''Two former coworkers said they overheard'' the leftwing activist trying to destroy Trump, sometimes called the whistleblower, ''and Misko, close friends and Democrats, discussing how to 'take out,' or remove, the new President from office within days of Trump's inauguration. These coworkers said the President's controversial Ukraine phone call in July 2019 provided the pretext they and their Democratic allies had been looking for.

'' 'They didn't like his policies,' another former White House official said. 'They had a political vendetta against him from day one.'

''Their efforts were part of a larger pattern of coordination to build a case for impeachment, involving Democratic leaders as well as anti-Trump figures both inside and outside of government.

''All unnamed sources for this article spoke only on condition that they not be further identified or described. Although strong evidence points to'' the leftwing activist trying to destroy President Trump, also known as the whistleblower, ''as the government employee who lodged the whistleblower complaint, he has not been officially identified as such. As a result, this article makes a distinction between public information released about the unnamed whistleblower/CIA analyst and specific information about'' the leftwing activist trying to destroy President Trump, also known as the whistleblower.

''Democrats based their impeachment case on the whistleblower complaint, which alleges that President Trump sought to help his reelection campaign by demanding that Ukraine's leader investigate former Vice President Joe Biden and his son Hunter in exchange for military aid.''

The article goes on: ''The whistleblower's candor is also being called into question. It turns out that the CIA operative failed to report his contacts with Schiff's office to the intelligence community's inspector general who fielded this whistleblower complaint. He withheld the information both in interviews with the inspector general, Michael Atkinson, and in writing, according to impeachment committee investigators. The whistleblower form he filled out required him to disclose whether he had 'contacted other entities'—including 'Members of Congress.' But he left that section blank on the disclosure form he signed.

''The investigators say that details about how the whistleblower consulted with Schiff's staff and perhaps misled Atkinson about those interactions are contained in the transcript of a closed-door briefing Atkinson gave to the House Intelligence Committee last October. However, Schiff has sealed the transcript from public view. It is the only impeachment witness transcript out of 18 that he has not released.''

I think I will pause here at this point. I have continually heard down in the Senate the House managers referring to what is basically a travesty to have a trial without any witnesses. No. Here is the real travesty.

The real travesty was the violation of House rules, not allowing Republicans to have the witnesses we requested. When those weren't agreed to, then under the rules—and, of course, the Democrats are in the majority. They could have changed the rules. They didn't, so we were entitled to a minority day of witnesses to testify, and that was refused as well.

That was the real travesty, when there was no allowance for Republicans to get down to real facts, get down to the bottom of the allegations against the President. That was truly a travesty.

But in the committee of jurisdiction, the Judiciary Committee, we were only allowed to have some law school professors come in and give us their opinions. Two were quite clearly hateful of President Trump. One tried to sound as if he was reluctant to talk about impeachment when he had been busy twittering about impeachment since President Trump had first been elected and sworn in.

It was a very disingenuous hearing, but we had to sit there and listen to the pontificating from people who clearly adjusted their opinions to address their disdain for President Trump. But that was the only live witnesses we were allowed to have.

Instead, we took in all these depositions, all the transcribed depositions. That is what we took in. Those were our witnesses. That is what the House Judiciary Committee and this House Chamber was supposed to have considered in voting on impeachment.

We were told, no, we have all this testimony, lots of witnesses, before the Judiciary Committee vote. We have all these transcripts if you want to read them.

□ 2000

We had all of these transcripts, lots of witnesses. You want to read them. And then people had the gall to go down the hall to the Senate and say: They are not allowing any witnesses.

Well, either there were no witnesses that the Judiciary Committee was able to consider, other than professors—and I thought Professor Turley was outstanding. He and Alan Dershowitz are normally quite liberal, but they care deeply about civil rights, and they care deeply about the Constitution, and they don't let their political persuasions affect what they believe about the Constitution. I admire that in them, even though, like I say, we have some strong disagreements on other things.

But there in the Senate, down the hall, they have all that mass of, what we were told here, was overwhelming evidence. They have got all of those transcripts down there. It is part of the evidence in the Senate, part of it, so either there was no evidence, no witnesses in the House, or there is plenty of evidence from which the Senate can consider and vote down this travesty called an effort to remove President Trump.

In this article it says: ''The investigators say that details about how the whistleblower consulted with Schiff's staff and perhaps misled Atkinson about those interactions are contained in the transcript,'' as I mentioned.

''Schiff has classified the document 'secret,' preventing Republicans who attended the Atkinson briefing from quoting from it. Even impeachment investigators cannot view it outside a highly secured room.''

Anyway, it goes on. It is pretty ridiculous. The article says further on: ''At the time, the CIA operative worked on loan to the White House,'' and they are talking about the leftwing activist trying to destroy President Trump, also known as the whistleblower. He was ''. . . on loan to the White House as a top Ukrainian analyst in the National Security Council, where he had previously served as an adviser on Ukraine to Vice President Biden. The whistleblower complaint cites Biden, alleging that Trump demanded Ukraine's newly elected leader investigate him and his son 'to help the President's 2020 reelection bid.' ''

The thing is, there is no such thing. What basically the House managers are saying is, if somebody is running for President, it doesn't matter how corrupt they have been. It doesn't matter how corrupt they and their family have been, you can't question them if they are running for President because that might be considered political.

Well, if there was corruption—and everybody knew there was plenty of corruption in Ukraine—and, apparently, no entity more corrupt than Burisma, the natural gas company that made Hunter Biden a member of the board, it is kind of important to find out what was at the heart of all this.

It is interesting, the leftwing activist that was trying to destroy President Trump, also known as the whistleblower, and Sean Misko and Abigail Grace, they reportedly have been quite close to the National Security Council. And it was Misko and this leftwing activist trying to destroy the President, also known as the whistleblower, who had been, as the article points out, overheard in the early days of the Trump administration trying to conspire on ways to take him out and get rid of him as President.

But the truth is, it had to—these three, Misko, Abigail Grace, and the leftwing activist that was trying to destroy Trump known as the whistleblower, they had dealings with Ukraine. They had dealings with Biden, and it is certainly worth noting that even in the inspector general's report, there was mention of the name, by name, of this leftwing activist trying to destroy Trump, also known as the whistleblower, as being a guest, being associated with Vice President Biden.

So if Vice President Biden, say, hypothetically, were involved in any bribery or plot to enrich family, then there is a good chance they would at least be witnesses, if not complicit.

So there are plenty of reasons besides disagreeing with President Trump's America First policy to try to stop any investigation into corruption by Vice President Biden because it may implicate them or at least make them witnesses to some of the stuff.

I still was blown away when I got to a Natural Resources Committee hearing one day and the person in charge of the tens of millions, hundreds of millions—whatever it was—dollars that the U.S. was providing to Puerto Rico for hurricane assistance, and the person in charge of doling out this money in Puerto Rico was the same person who had been finance minister in Ukraine when they had all of this money—a billion or whatever it was—that they were dealing with from the Obama administration.

It was amazing. And I asked: ''How do you do that?'' I mean, didn't Ukrainians want—it wasn't the defense minister but finance minister—''Didn't Ukrainians want a finance minister who was Ukrainian?''

''Yes,'' she says. In essence, she said: They swore me in as a citizen of Ukraine the same way they swore me in as finance minister.

How do you get jobs like that? You hear that the United States is going to send a billion, or hundreds of millions of dollars somewhere, and you run and get in front of that so you can get a job making sure the right people get all of that money. How does that happen?

You can get a job handing out that money in Ukraine. You can get a job, same person, run over to Puerto Rico, ''I want to be in charge of the money here in Puerto Rico.'' That is amazing.

I am sure there were other people who would have loved to have had those jobs. How does this same person get that job in Puerto Rico and Ukraine? Maybe it is kind of like Strzok and Page.

We saw in the Horowitz inspector general report from the Department of Justice—another great Obama holdover—he pointed out in his 60-or-so page report about Comey: Yeah, he says, you know, Comey, he took home material that was a violation to take home. He leaked it, got it into the press.

Of course, he was trying, as he said, to get a special counsel appointed, which his conspiracy worked out well. He got a special counsel appointed, his running buddy, Bob Mueller, whom he had said in an article some years back something like: It is great knowing that if he were on a railroad track and a train were coming, that Bob Mueller would be right there with him.

Yeah, well, that is interesting, but nonetheless, Horowitz pointed out that the reason that Comey probably wouldn't be prosecuted, shouldn't be—you know, we referred it—was because the information he leaked and that he took—some would say stole—but he took was classified at such a low level, it was really more of a violation of his employment agreement and the policy manual.

Well, how did it get classified at such a very low level? Well, on page 1 and 2 of the Horowitz report, he is talking about the FBI did this. They reviewed this. The FBI did this and that. Well, you don't know until you get over to page 42 or 43 of this 60-or-so page report when he finally reveals—when he says the FBI on pages 1 and 2, he is talking about two people, Peter Strzok and Lisa Page.

He has the gall to put in there that, in essence, the reason they were so good at doing this classification of the Comey stuff—if they classified it at a higher level, Comey would be prosecuted and go to jail, so classify it at a low level so he wouldn't—but they were so good at classifying the emails of Hillary Clinton, that is why they were so qualified to do this for the Comey material that was withheld, taken home, stolen, whatever you want to call it and leaked.

So it is kind of the same thing here. Gee, these folks are experts. Why? Because they told us they were. That is what Strzok and Page said. You know, we are the best at reviewing and classifying.

But this article from Paul Sperry goes on, and says about this that: ''Two NSC coworkers told RCI''—and I guess that is RealClear Investigations, doing this article—''that they overheard'' the leftwing activist trying to destroy President Trump, also known as the whistleblower, ''and Misko—who was also working at the NSC as an analyst—making anti-Trump remarks to

each other while attending a staff-wide NSC meeting called by then-National Security Adviser Michael Flynn, where they sat together in the south auditorium of the Eisenhower Executive Office Building, part of the White House complex.

''The 'all hands' meeting, held about two weeks into the new administration, was attended by hundreds of NSC employees.''

That has got to change. The President has got to dramatically cut the number of people who are part of the National Security Council. You can't have security with that many people part of the National Security Council.

The article points out: ''They were popping off about how they were going to remove Trump from office.''

This is back right after Trump took office. And this is a quote from the person that disclosed this to Paul Sperry. ''No joke,'' he said, or she, whoever it was.

''A military staffer detailed to the NSC, who was seated directly in front of'' the leftwing activist trying to destroy Trump, also known as the whistleblower, ''and Misko during the meeting, confirmed hearing them talk about toppling Trump during their private conversation, which the source said lasted about one minute. The crowd was preparing to get up to leave the room at the time.

''After Flynn briefed the staff about what 'America First' foreign policy means,'' the leftwing activist trying to destroy President Trump, also known as the whistleblower, ''turned to Misko and commented, 'We need to take him out.' And Misko replied, 'Yeah, we need to do everything we can to take out the President.'

''Added the military detailee, who spoke on condition of anonymity: 'By ''taking him out,'' they meant removing him from office by any means necessary.' ''

Of course, that's this person's impression. Maybe they meant something else by ''taking him out.'' That was his impression, or her impression.

''They were triggered by Trump's and Flynn's vision for the world. This was the first 'all hands' staff meeting where they got to see Trump's national security team, and they were huffing and puffing throughout the briefing any time Flynn said something they didn't like about 'America First'.

''He said he also overheard'' the leftwing activist trying to destroy President Trump, also known as the whistleblower, ''telling Misko, referring to Trump 'We can't let him enact this foreign policy.' ''

And I have got to say, that sounds remarkably like colonel, lieutenant colonel—I gave him a promotion there for a moment—Lieutenant Colonel Vindman.

Reviewing his testimony, as I am going through, I am going: Holy smoke, this guy is more loyal to Ukraine and the Ukrainian President than he is to the UCMJ, to his own Constitution, to his Commander in Chief.

So I was not at all surprised when I found out the President of Ukraine, he noticed the same thing I did, and offered Lieutenant Colonel Vindman—three times he offered him the job of Minister of Defense in Ukraine.

□ 2015

This is just amazing. This guy clearly did not like President Trump, and you could tell he was really offended. He was the expert on Ukraine, he knew what American foreign policy was supposed to be, but he was totally ignorant of the Constitution that basically allows every President—as President Obama said, elections have consequences. When President Trump got elected, he was the new foreign policy, and anyone in the administration who didn't like President Trump's foreign policy needed to leave. If they couldn't follow it, if they couldn't work with it and implement it, then they needed to be honest and honorable, instead of being destructive to our Constitution and our country and resign or ask for reassignment somewhere else. Or in Vindman's case, go ahead and take the job of defense minister of Ukraine.

But, of course, if he had done that, then he wouldn't have looked very good when he came to testify because he wouldn't have been wearing a uniform like he doesn't wear to work, but he needed to hang around to try to destroy President Trump. Of course, there are articles about him potentially being the one who leaked the conversation to the leftwing activist trying to destroy President Trump also known as the whistleblower.

In any event, this article says: ''Alarmed by their conversation, the military staffer immediately reported what he heard to his superiors.

'' 'It was so shocking that they were so blatant and outspoken about their opinion. They weren't shouting it, but they didn't seem to feel the need to hide it.'

''The coworkers didn't think much more about the incident.

'' 'We just thought they were wacky,' the first source said. 'Little did we know.' ''

''A CIA alumnus, Misko had previously assisted Biden's top national security aide Jake Sullivan. Former NSC staffers said Misko was,'' the leftwing activist trying to destroy President Trump, also known as the whistleblower ''closest and most trusted ally in the Trump White House.''

They were '' 'very tight and spent nearly 2 years together at the NSC. . . . Both of them were paranoid about Trump.'

'' 'They were thick as thieves,' added the first NSC source. 'They sat next to each other and complained about Trump all the time. They were buddies. They weren't just colleagues. They were buddies outside the White House.'

''The February 2017 incident wasn't the only time the pair exhibited open hostility toward the President. During the following months, both were accused internally of leaking negative information about Trump to the media.

''But Trump's controversial call to the new president of Ukraine this past summer—in which he asked the foreign leader for help with domestic investigations involving the Obama administration, including Biden—gave them the opening they were looking for.''

I would humbly submit, though, that if they were involved in any of the corruption that was going on over there with Burisma and Ukraine—and though many in the media want to take the talking points from our Democratic folks across the aisle, and one accused me of regurgitating Russian propaganda, when the truth is what the Russians have wanted, what Putin has wanted more than anything else was to divide the United States, because he knew dividing this country pretty much closely in the middle would help do what he has wanted to do since the Soviet Union fell and he was a KGB agent, and that is divide America so that it falls. That is exactly what he wants.

We have heard—people don't want to talk about it—but the truth is, there were some Russian efforts to help Hillary Clinton in that election, which I think makes clear they wanted to divide America and they have been totally successful in dividing America. They have got to feel good about what they do as they watch the impeachment proceedings.

But anyone who would sit here and say I was quoting Russian propaganda, actually, that person would end up being the tool of the Russians because he is dividing America which is what Russia and Putin have wanted to do. He is doing the handiwork of Putin, not me.

So I would still submit, as I have numerous times, that critical fact witnesses don't necessarily need to be heard at this impeachment sham down the hall, but there do need to be witnesses in very rigorous hearings in the Senate. They would be Alexandra Chalupa who worked with Ukraine, Biden, and others, the leftwing activist trying to destroy President Trump also known as the whistleblower, Abigail Grace, and the guy who Chairman SCHIFF hired on July 26, the day after President Trump's good call with the President of Ukraine, Zelensky, the guy who ran on the basis that he was going to stop corruption. That was a great thing.

He said: Why didn't President Trump talk to the Ukrainians sooner about anti-corruption?

It wasn't until 2019 that they elected a new president who said he is going to do something about corruption.

Why would he talk to the previous president who was in corruption up to his eyeballs?

It wouldn't do any good.

But President Trump had hope. Whether it is a Republican or a Democrat in the White House, I hope they

will seek help from any country in which there is corruption that involves American high officials. I hope that happens.

But in the meantime, the impeachment proceeding goes on down the hall, and it is dividing America. It is bad for America. We really need to come together and stop doing Russia's handiwork for them. They want us divided, and the people pushing this stuff are doing their handiwork for them. I am not saying intentionally. They are happy to do it to try to hurt Republicans, especially to hurt President Trump, but this is serious. It is dividing America.

Again, my friends across the aisle, I love that they are quoting the Founders these days, but we should hang together or we will most assuredly hang separately. We need to hang together as a country. We can have our disagreements, but this wanting to criminalize disagreements as they have done with President Trump's America First policy needs to stop. We need to come back together and get some things done.

Madam Speaker, I yield back the balance of my time.

MUSLIM BAN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2019, the gentlewoman from Michigan (Ms. TLAIB) is recognized for 60 minutes as the designee of the majority leader.

Ms. TLAIB. Madam Speaker, as part of the incredible, large class of members of the Congressional Progressive Caucus, I am really proud to be here helping my colleagues translate a number of policy positions and issues and in being able to translate that into action to various policies and to be able to express that.

So this Special Order is very, very much an integral part of organizing within our caucus, the Congressional Progressive Caucus, on what we call frontline community issues. So I want to thank my colleagues for helping us organize today a Special Order hour to declare loudly and very clearly to every Muslim American and to Muslims around the world that the House of Representatives will not stand idly by as this administration continues to enforce its racist Muslim ban.

So with that I really rise today to send a message to marginalized communities everywhere that through our work to repeal the Muslim ban we are preventing racist bans from ever happening again.

I am so incredibly grateful for Congresswoman CHU's leadership of the National Origin-Based Antidiscrimination for Nonimmigrants Act, or what we call the NO BAN Act. I thank Congresswoman CHU for her leadership and courage to stand up to those who try to target folks based on their faith.

Madam Speaker, I yield to the gentlewoman from California (Ms. JUDY CHU).

Ms. JUDY CHU of California. Madam Speaker, I thank Congresswoman TLAIB for putting this Special Order hour together. I truly appreciate it, especially during this very, very significant week.

Monday marked the third anniversary of the Muslim ban. We had a press conference on that day. It was incredible to see the Senators and the House Members and so many groups of great diverse backgrounds all coming together to say that now is the time to pass H.R. 2214, the NO BAN Act.

The failure of this ban was apparent the day it began. I will never forget that day in January of 2017, just 3 years ago, when Donald Trump announced his first Muslim ban, creating chaos and separating families with no justification. I was on my way to a community event when I received a frantic call about 50 Muslims who were being detained at LAX for hours with no end in sight, despite the fact that they had green cards and were legal.

At that point I decided to drop everything and help in any way I could. I rushed over to LAX to advocate for these people, and once I arrived I found out that indeed there were scores of people there with a legal right to be here kept for hours with little food and blocked from receiving legal advice from an attorney. It was outrageous.

When I pressed Customs and Border Protection for answers, they resisted and blocked me. I even got them on the phone only to have them hang up on me. I had never been more disrespected as a Member of Congress, but disrespect and chaos is what this Muslim ban is all about.

The pain and psychological trauma this travel ban has caused are long lasting, spouses and fiances being separated, weddings, funerals and graduations have been missed. People have not been able to come to take care of sick ones. Over 5,000 adopted children of U.S. citizens cannot join their families. None of these people are a threat to the U.S., and we have every way of knowing that through our extensive vetting process. But they have been made victims of this hateful ban nonetheless.

It just doesn't have to be this way. When the Supreme Court upheld the President's ability to issue these bans, the Court also required the administration to grant waivers to ensure that the program had a legitimate national security interest. But despite that requirement, the State Department has approved only 10 percent of these applicants. That means that the Trump administration believes that 90 percent of all travelers from these countries are threats to our national security, and it renders this waiver process virtually nonexistent.

That is outrageous. That is why we have to fight back, and that is why last spring I introduced the NO BAN Act with Senator Chris Coons, which is the best way to reclaim Congress' power and stop this ban.

First, it would repeal all three versions of President Trump's Muslim ban, putting an immediate end to this family separation.

Second, it requires a report on the total number of waivers that were granted and the total number that were denied, so we know the truth about what has happened.

Third, our bill says that if a President does want to implement such a ban in the future he would actually have to prove actual evidence of a threat. This ensures in the future no individuals are denied entry into the U.S. based solely on their religion.

□ 2030

With the President confirming that he now wants to expand this ban to even more countries, now is the time to act.

The response to the NO BAN Act has been tremendous: 214 Members of Congress have cosponsored the bill in the House, and over 480 groups have endorsed it; 39 Members of the Senate are cosponsors.

In September of 2019, the House Judiciary and Foreign Affairs Committees held a joint hearing that examined how few waivers have been granted to individuals since the ban was issued, even though most people applying for entry into the U.S. pose no threat to our country.

Just this week, Chairman NADLER announced that the bill will be marked up in the Judiciary Committee in 2 weeks, and Speaker PELOSI announced that the NO BAN Act will be brought to the floor for a vote.

This vote cannot happen soon enough for people like Ismail Alghazali, who will be my guest at the State of the Union next week. Ismail is a U.S. citizen who works at a small neighborhood market in New York, and, in 2013, he married his wife, Hend, in Yemen. Hend applied for a visa to join her husband in the U.S., but before her interview at the U.S. Embassy in Djibouti, Trump's hateful Muslim ban went into effect.

Hend was 8 months pregnant, and her pregnancy has been difficult. Doctors had discovered she had a heart condition. Ismail and Hend hoped that that meant that they would be granted a waiver due to medical reasons. But after an interview that lasted just 5 minutes, Hend was denied a visa and left to give birth in Djibouti, while Ismail had to return to the U.S. He was not able to witness the birth of his first child.

Last year, in April, Hend gave birth to another daughter, and Ismail has not been able to even meet his daughter for several months because of the ban. Luckily, however, the family has now been reunited in the United States.

But too many others are left waiting for no reason, other than the President's prejudice.

We have every ability to vet people like Hend as we have done for years.

Leaving families divided by this ban is a choice. That is why we need the NO BAN Act. It is essential that we take away the President's power to put prejudice into policy before more countries and more families are impacted by this hateful ban.

Madam Speaker, I thank all my colleagues who are here tonight for their steadfast support of this bill, and I thank Congresswoman TLAIB.

Ms. TLAIB. Madam Speaker, as one of its first acts, this White House decided to ban Muslims from entering the United States by issuing an executive order prohibiting the entry of nationals of certain Muslim-majority countries.

The people this administration banned are not all the same. They represent a diverse array of countries and cultures, including Arab communities, Black communities, Southeast Asian communities, amongst so many others.

All around our Nation, especially in Michigan's 13th District strong, we understand just how dangerous this administration's racist Muslim ban is for our families. The Muslim ban fuels anti-Muslim violence and discrimination. It promotes the dangerous myth that Muslims are inherently foreign, violent, and pose a threat to the United States.

The Muslim ban also harms children. In the 2 years since it went into effect, countless families have been needlessly separated. People have been denied access to lifesaving medical treatments. Children have been denied their parents, access to their grandparents, and family members have missed births, deaths, weddings, and funerals for loved ones.

I rise today to say that Muslims and Muslim Americans are our friends, our neighbors, and our family members—and, yes, they are also Members of Congress.

This White House might not like that fact very much, because the racist Muslim ban represents the Federal Government's endorsement of an anti-Muslim discrimination culture. The policy endorses a fear-mongering campaign that only serves to dehumanize and divide, and it leads us to question if this White House has any plans for our country that are not centered on hate or greed.

I am extremely troubled that this federally sanctioned discrimination has contributed to a significant spike in hate crimes against American Muslims and attacks on mosques in Muslim communities all across the country.

That is why, as Members of Congress, we must put an end to discrimination by passing the NO BAN Act. We have over 200 Members of Congress who support and cosponsor this NO BAN Act.

As introduced, the NO BAN Act would immediately rescind the Muslim ban and stop discriminatory orders and abuses of authority by this administration, thanks to the leadership of Congresswoman JUDY CHU.

By ending the Muslim ban, the NO BAN Act will also get us close to ending the extreme number of increasing religious discrimination within our immigration system now.

The bill would amend the Immigration and Nationality Act, INA, to prohibit discrimination on the basis of religion and ensure that no President ever again will be able to ban an entire community without accountability.

I urge my colleagues in the House leadership to bring the NO BAN Act to the floor as soon as possible, because our communities cannot wait. Minority communities across our country and, indeed, the international community are eager for action that repeals the Muslim ban.

As someone who is raising two Muslim boys in our country, I can tell you they struggle now even sharing about their faith and even worried about the rhetoric that they hear from various folks in school, but also just in passing, not only through social media, but through different kinds of conversations that they are hearing where they talk about not only folks who are of the Muslim faith, but folks of various immigrant communities. And being two sons of a father who is also an immigrant, they now really struggle very much in feeling that they can be open.

At 9 years old, my son, who is now 14, remembers me—I remember speaking to his father about a terrible ad, a cartoon that was put in USA Today, where it depicted Muslims in a certain way that would evoke violence towards Muslim Americans. I remember talking to his father at that moment and just kind of whispering to him: This is terrible. I can't believe they are doing this. This is just going to invoke people to really hate and even want to kill Muslims.

And my son, who came into the bedroom, said: Don't worry, Mama. If anybody asks if I am Muslim, I will tell them that I am not.

That is the kind of culture that we create by allowing these kinds of discriminatory policies to be placed and for us to allow it to be codified through executive orders and allow it to go without any action.

I ran a campaign to take on hate, which really started in Michigan, but was implemented throughout the country in about 12 communities.

And one of the things that young people understand is you have got to take on hate with action. You can't sit idly back—because people just thought: Well, this doesn't impact me—but really trying to understand that it does connect all of us; because this form of othering in the culture that you see within the administration is real and it is dangerous, and sitting idly by and not doing anything about it, to me, will increase that form of hate towards people of different faiths.

And trust me, it is not just about Muslims. It is about other kinds of faiths, people of different ethnic backgrounds.

This, in essence, is creating this kind of hate culture that we can't see, not only in our American society, but it is also festering within our school culture and with our young people again questioning constantly with identity and allowing this kind of othering to be normalized through acts like this executive order.

When you hear Muslim leaders and those talk about the separation that happens, I remember at Bridging Communities in southwest Detroit, we had a press conference with Congresswoman DEBBIE DINGELL fighting back against the separation of families, and it all stemmed around: Well, I didn't understand there was supposed to have been a waiver.

Well, everyone should know, many of the people we represent who are coming to our offices were not granted waivers.

And we are talking about people who are married, who have legal access through the immigration, but for the Muslim ban, and are not able to reunify with their family members.

I have two young children who can't see their father because of the Muslim ban.

I have folks who had a green card, had access to the United States, but when this got implemented, because it was implemented in a way where there was no notice, no policy, no procedures, no structure in place for folks on the ground to understand what was going on, that is why we saw what we saw, the overwhelming call for action and people showing up to airports all across the country saying: No, not now, not ever.

It is really important that we do it through action within the Congress, and I hope my colleagues understand this should be bipartisan support.

This is religious discrimination. This is one of our core values as Americans. We are founded on religious freedom. And for us to allow, again, targeting of folks solely based on their faith, to me, repeats history. We have done it in the past; and it wasn't right then, and it isn't right now.

And I think I can speak on behalf of Muslim Americans. They do not want to wait for an apology. Apology is not enough. They want action today. They know this is discriminatory. They know this is bias. They know this is targeting Muslims.

And, yes, it is leading to, again, increased hate crimes towards Muslims in huge amounts across the country; and so it is critical that we act, that we don't sit silently by, because doing nothing is not an option anymore. So I urge the House leadership to bring this NO BAN Act forward to the floor as soon as possible.

I really commend the incredible leadership of many of our colleagues, especially my good colleague from Indiana, Congressman ANDRÉ CARSON, whom I lovingly call the dean of the Muslim Caucus.

Yes, we are your neighbors; we are your advocates; we are your doctors, your teachers, and all of those things, and also your Members of Congress.

And so, again, it is really critically important that we push back against this ban.

Madam Speaker, I yield to the gentleman from Indiana (Mr. CARSON).

Mr. CARSON of Indiana. Madam Speaker, I would like to thank Congresswoman TLAIB for her leadership, for her friendship, for all that she does not for just her constituents, but for Muslims, non-Muslims, and Americans.

Madam Speaker, I rise today in support of the NO BAN Act, which was a great opportunity for me to be a co-author, and I urge Congress to swiftly pass this legislation.

Madam Speaker, in the 3 years since President Trump implemented his Muslim ban, its dangerous impact is clearer than ever: Families remain torn apart, America is less respected around the world, and our country isn't any safer.

But for this President and for all of those who crafted this ban, this policy was never about national security. Since his first day in office, he has worked to advance a dangerous white nationalist agenda, and the Muslim ban is its cornerstone.

It is no surprise, then, that he may be planning to expand this ban to even more countries, many in Africa, which he has previously described in some of the most vulgar and offensive ways.

As a Muslim and as a Black man, it pains me to witness this low moment in our country. It is not the only time America has shut its doors to people in need simply because of their race, ethnicity, and nationality; but, thankfully, we can make it the last time. Madam Speaker, that is why it is so important that we pass the NO BAN Act to end the Muslim ban and make sure history no longer repeats itself in this way.

Our legislation has more than 200 cosponsors in the House and the endorsement of nearly 400 diverse civil rights, faith, national security, and community organizations. Americans of all backgrounds are behind this great bill and are demanding Congress to pass it, to take a bold stand against bigotry. So I am extremely pleased that the NO BAN Act is expected to be taken up by the Judiciary Committee next month.

As my colleague, Congresswoman TLAIB said, and I want to reaffirm, Muslims are part of what makes this country great.

□ 2045

Muslims have been a part of this country since the inception of what we now know to be America. Ever since those West African slaves were brought here to America, Muslims have contributed to our country.

Go to any major courtroom, and you will find a Muslim lawyer, maybe a judge. Go to any major hospital in this great country, and you will find a Muslim physician. There are Muslim engineers, Muslim scientists, Muslim educators, Muslim politicians. You have three in Congress. We will see more in the future, God willing.

Madam Speaker, I urge my colleagues and all Americans who believe in equality for all people to support the NO BAN Act. Together, we will get it passed and begin a new chapter in our country's history.

Ms. TLAIB. Madam Speaker, I thank my colleague from Indiana.

I really appreciate the incredible public service that not only stems here but, as you all know, many of our servicemen and women who are of Muslim faith are serving our country every single day.

Again, people need not try to separate us as not being part of this amazing country. The Muslim ban completely tears that down and comes from, again, a place of hate that we need to push back against.

Madam Speaker, I yield to the gentlewoman from Washington (Ms. JAYAPAL), who I really honor and respect, the co-chair of the Congressional Progressive Caucus, my good colleague, one of the fighters within this Chamber every single day for communities of color and marginalized communities.

Ms. JAYAPAL. Madam Speaker, I thank the gentlewoman for her incredible leadership. It has been wonderful working with her not just here in this body and in the Congressional Progressive Caucus, which I am proud to co-chair, but for years we have known each other and worked together. It is wonderful to have her here to talk about this issue and her leadership on this issue, really the kind of leadership that America needs to show by passing the NO BAN Act.

Three years ago, I had just been elected to Congress, and it was within my first weeks here that Donald Trump issued his first Muslim ban. When that happened, I thought back to after 9/11—that is actually when I started becoming very involved in politics as an activist. We faced some similar situations of Muslims, Arab Americans, and others being targeted simply for their religion, their ethnicity, their place of origin.

The good news is that I knew what to do, which is that I immediately rushed to the airport. That Muslim ban created irreparable harm on Muslim families, here at home, but also around the world.

We had generals in our military testify that we desperately need to have our allies and that some of those allies are, in fact, Muslims who help us in other countries.

When I heard the news and rushed to SeaTac Airport, I saw absolute chaos, chaos that was caused by an administration that put forward a Muslim ban with no preparation, no notification, no planning at all for the kind of harm, irreparable harm, that would be caused for American citizens, for lawful residents, and for international visitors.

Today, families remain separated from their loved ones, American businesses, and research institutions. I have many of those research institutions in my district and many American businesses in my district that are not able to recruit the best minds from abroad.

Our Nation's doors are closed to people seeking safety from violence, war, and persecution.

But it wasn't just then. The chaos has not stopped.

Earlier this month, up to 200 Iranian Americans—almost all the ones that we know of are U.S. citizens, legal permanent residents, green-card holders—were unjustly detained at the U.S.-Canada border in my own State of Washington.

In the days after the Muslim ban, I had introduced the Access to Counsel Act, an act that once again was so important as we watched these detentions of Iranian Americans, who, by the way, travel across the border regularly. In fact, some of them travel across the border so much that they have expedited processing.

What that means is that you go through additional security screening so that you can get a card that you hold up at the northern border as you cross the border. You don't need anything else other than that expedited screening, that extra security screening in order to cross the border.

But that day, we believe over 200 Iranian Americans were stopped at the border, U.S. citizens, legal green-card holders, simply because they were of Iranian descent.

The Access to Counsel Act, which we hope to mark up and bring to the floor at the same time as the NO BAN Act, just says that if you were here as a U.S. citizen, a legal permanent resident, or have any legal status and you are put through this unjust secondary screening, that at least you can have access to counsel, not counsel paid for by the government, but just counsel provided either through your own pocket or through nonprofits that provide that service, because people are being deported in an expedited manner.

In fact, that is what happened in Seattle 3 years ago when I rushed to the airport when the Muslim ban was first introduced. We actually were able to, at the airport, get a temporary injunction from a judge that allowed us to essentially go and stop a plane on the tarmac that was ready to take off with some people who should not have been deported.

We were able to stop that plane from taking off, thanks to the courts and the incredible speed of attorneys and nonprofit organizations that came together and filed for a temporary injunction. That allowed us to stop the plane and to stop people from actually being deported.

It is not right that we are seeing U.S. citizens detained by CBP for up to 9 hours without a chance to speak to a lawyer simply because they weren't born here, even though they are United States citizens.

It is not right that students with visas have increasingly been rejected at our airports and deported without a

chance to speak to a lawyer, when people have legal status in the United States.

It is not right that they are subjected to a second loyalty test simply because of their religion or their place of birth or their ethnicity.

Madam Speaker, I am one of only 14 immigrants in the United States Congress, out of 535 naturalized citizens, who have the great honor and privilege of being a United States citizen. I don't want us to think that we have separate loyalty tests that we have to go through. We have examples of that—the Japanese internment, 123,000 Americans of Japanese ancestry who were put into internment camps simply for being Japanese American.

The reality is we need the NO BAN Act to repeal President Trump's Muslim ban and stop any future President from implementing future discriminatory bans.

I am very grateful to my colleague, Congresswoman JUDY CHU, chair of the Congressional Asian Pacific American Caucus, for introducing and championing this critical bill to send an important message to our Muslim brothers and sisters here and abroad that America believes in religious liberty and that we remain committed to welcoming people regardless of their faith, regardless of the country in which they were born.

In recent weeks, we have heard that an expanded Muslim ban may be coming from the Trump administration this week. Let me be very clear: Each iteration of these bans sends a terrible message to Muslims, to those who are targeted, that our foundational value of freedom of religion does not apply to them.

An expanded Muslim ban will only worsen our relationships with countries around the world, and it will not make our country safer. It will harm refugees. It will isolate us from our allies. It will give extremists propaganda for recruitment. It will be a different Muslim ban pushed by the same xenophobic administration, and it will have the same negative ramifications as past versions of the Muslim ban.

Madam Speaker, I just had the opportunity to come back from a codel to Sudan with a number of our Members, Republican and Democrat. This is a country that is transitioning from a 30-year dictatorship to a democracy, a civilian-led government. That was powered by a people's revolution in the streets that inspired us here in the United States and around the world, people who sat and peacefully protested a brutal dictatorship. Over 200 people were shot and killed in those peaceful protests on June 3.

Madam Speaker, Sudan has been supposedly added to this next round of countries that may be added to the Muslim ban. The people of Sudan said to us, Republican and Democratic Representatives of the United States Government: ''Doesn't America believe in democracy, in transition?''

Why would Sudan, with a people's revolution that led to a democratic government through the overthrow of a dictator who has been in power for the last 30 years, why would Sudan be on a list of countries that have these restrictions and be part of this ban? That sends the totally wrong message.

As the vice chair of the Committee on the Judiciary's Subcommittee on Immigration and Citizenship, I will do everything in my power to resist the Muslim ban and demand liberty and justice for all, without any caveats.

We must pass the NO BAN Act to end not just the Muslim ban but other anti-immigrant policies pushed by this administration. Most importantly, we must pass the NO BAN Act to remind ourselves again of who we are as a country, a country that has welcomed people from all over the world, including myself.

I came here as a 16-year-old with nothing in my pockets, by myself, and to now be standing here in the United States Congress, my responsibility—our responsibility as a body is to preserve those foundational values of freedom and justice and religious tolerance.

Madam Speaker, I look forward to passing the NO BAN Act. I thank Representative TLAIB for her friendship, for her leadership, and for all that she does to advance justice. On behalf of the Progressive Caucus, 100-members strong, we are so glad to have her in it.

Ms. TLAIB. Madam Speaker, I thank the gentlewoman. Her incredible leadership and mentorship are so inspiring but also completely fuels my commitment to be centered around social justice and equality.

Madam Speaker, I wanted to make sure that we talk about the fact that because of the Muslim ban and some of the kind of hate agenda policies that we see coming out of the administration, it all has resulted in an increase of hate crimes that still is underreported and has not, I think, truly, under this administration, been documented by the FBI.

Even when the current President just called for a total and complete shutdown on Muslims entering the United States, just days after that report, hate crimes against Muslims and Arabs nationwide spiked up 23 percent.

As we hear about the various kinds of hate crimes, we get some of these complaints and incidents being reported to even our offices. I wanted to make sure that we talk about the fact that the FBI, when it released its report this past year, that Muslim advocates in their statement—which is very accurate, based on what we hear of our community members at home—said that, yet again, the FBI annual statistics on hate crimes show us that the worrying numbers of Muslims, Jews, Sikhs, and Latinos being victimized by hate crimes are not being reported, or the data does not reflect that. It is not a complete, accurate picture of the epidemic of hate that continues to threaten the safety of so many Americans across the country.

Last year, an armed man drove a truck into a convenience store in Louisiana because he suspected the owners were Muslims. Also in March last year, a man deliberately tried to drive his car into a Muslim family in a parking lot in California and managed to strike the father twice.

Both are clear examples of hate crimes. Neither of those were included in the FBI's data on hate crimes.

Madam Speaker, it is completely unacceptable. As we push for the NO BAN Act, I also want to try to encourage my colleagues to try to have hearings and discuss the importance of accurate data around hate crimes increasing across the country. That is why we have to pass the Khalid Jabara and Heather Heyer NO HATE Act to improve the hate crime reporting data collection.

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Many of the organizations that support the NO BAN Act also want to see a much better reflection of the data being reported by the FBI around hate crime.

The only way we are able to promote or push back against these forms of hate that lead to violence, and even death, for so many folks that are impacted by these forms of racist policies and hateful agenda policies, is to be able to document and to push back against it.

So I really appreciate a number of my colleagues, over 200 Members that support the NO BAN Act, and I look forward to finally being able to vote for it on the floor.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Members are reminded to refrain from engaging in personalities toward the President.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LEWIS (at the request of Mr. HOYER) for January 27 and today.

Mrs. LURIA (at the request of Mr. HOYER) for today after 5:45 p.m. and tomorrow on account of death in the family.

ADJOURNMENT

Ms. TLAIB. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 p.m.), under its previous order, the House adjourned until tomorrow, Thursday, January 30, 2020, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

3671. A letter from the Secretary, Department of Energy, transmitting the Department's report ''Sustainability Plan for the Solar Regional Test Centers'', pursuant to Public Law 115-244; to the Committee on Appropriations.

3672. A letter from the Secretary, Department of Energy, transmitting the Department's report on Hydrogen and Fuel Cell Activities, Progress and Plans: September 2016 to August 2019, pursuant to 42 U.S.C. 16160(a); Public Law 109-58, Sec. 811(a); (119 Stat. 852); to the Committee on Energy and Commerce.

3673. A letter from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting the Department's final rule — Administrative Updates to Personnel References (RIN: 1901-AB50) received January 23, 2020, pursuant to 5 U.S.C. 801(a)(1)(A); Public Law 104-121, Sec. 251; (110 Stat. 868); to the Committee on Energy and Commerce.

3674. A letter from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting the Department's Annual Report of Interdiction of Aircraft Engaged in Illicit Drug Trafficking, pursuant to 22 U.S.C. 2291-4(c); Public Law 103-337, Sec. 1012 (as amended by Public Law 107-108, Sec. 503); (115 Stat. 1405); to the Committee on Foreign Affairs.

3675. A letter from the Auditor, Office of the District of Columbia Auditor, transmitting a final report titled ''Enrollment Projections in D.C. Public Schools: Controls Needed to Ensure Funding Equity'', pursuant to Public Law 93-198, Sec. 455(d); (87 Stat. 803); to the Committee on Oversight and Reform.

3676. A letter from the Auditor, Office of the District of Columbia Auditor, transmitting a final report titled ''Auditor Certifies Revenues For Issuance of Income Tax Secured Revenue Bonds'', pursuant to Public Law 93-198, Sec. 455(d); (87 Stat. 803); to the Committee on Oversight and Reform.

3677. A letter from the Director, Federal Election Commission, transmitting the Commission's statement that it did not complete or initiate any Sec. 647(a) competitions in FY 2019, nor do they plan to do so in FY 2020, pursuant to the Consolidated Appropriations Act, 2004, Public Law 108-199, pursuant to 31 U.S.C. 501 note; Public Law 108-199, Sec. 647(b); (118 Stat. 361); to the Committee on Oversight and Reform.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:

H.R. 2328. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than February 19, 2020.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RIGGLEMAN:

H.R. 5699. A bill to prohibit mandatory or compulsory checkoff programs; to the Committee on Agriculture.

By Mr. KIM (for himself, Ms. FINKENAUER, Mr. ROUZER, and Ms. PINGREE):

H.R. 5700. A bill to amend title 23, United States Code, to ensure that Federal-aid highways and bridges are more resilient, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HUDSON (for himself and Miss RICE of New York):

H.R. 5701. A bill to amend title 38, United States Code, to improve assistance and support services for caregivers of veterans; to the Committee on Veterans' Affairs.

By Mr. STEUBE (for himself, Mrs. LESKO, Mr. HAGEDORN, Mr. JOYCE of Pennsylvania, Mr. KING of Iowa, Mr. BANKS, Mr. ROUZER, and Mr. FULCHER):

H.R. 5702. A bill to provide that for purposes of determining compliance with title IX of the Education Amendments of 1972 in athletics, sex shall be determined on the basis of biological sex as determined at birth by a physician; to the Committee on Education and Labor.

By Ms. CASTOR of Florida:

H.R. 5703. A bill to amend the Children's Online Privacy Protection Act of 1998 to update and expand the coverage of such Act, and for other purposes; to the Committee on Energy and Commerce.

By Ms. CHENEY (for herself, Mr. MCKINLEY, and Mrs. MILLER):

H.R. 5704. A bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to establish a carbon technologies program, and for other purposes; to the Committee on Science, Space, and Technology.

By Ms. CHENEY (for herself, Mr. GOSAR, Mr. MCCLINTOCK, Mr. NEWHOUSE, Mr. NORMAN, Mr. GIANFORTE, Mr. CRAWFORD, and Mr. ARMSTRONG):

H.R. 5705. A bill to amend the Endangered Species Act of 1973 to restrict the Secretary's ability to alter permits, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLINE (for himself, Mr. CORREA, and Mr. COLLINS of Georgia):

H.R. 5706. A bill to amend section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 by allowing danger pay for the U.S. Marshals Service; to the Committee on Foreign Affairs, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODNEY DAVIS of Illinois (for himself, Mr. LOUDERMILK, Mr. WALKER, Mr. RIGGLEMAN, Mr. HAGEDORN, Mr. CHABOT, Ms. STEFANIK, Mr. KATKO, and Mr. YOUNG):

H.R. 5707. A bill to amend the Help America Vote Act of 2002 to direct the Election Assistance Commission to adopt voluntary guidelines for the use of nonvoting election technology, to require the Director of the National Institute of Standards and Technology to submit semiannual status reports on the extent to which the Director has carried out the Director's responsibilities under such Act and carried out projects requested by the Election Assistance Commission, to establish an Election Cyber Assistance Unit in the Election Assistance Commission, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GALLAGHER:

H.R. 5708. A bill to amend the Immigration and Nationality Act to clarify the contempt authority of immigration judges, and for other purposes; to the Committee on the Judiciary.

By Mr. NEGUSE (for himself and Mr. ROONEY of Florida):

H.R. 5709. A bill to require the Comptroller General to evaluate and issue a report on the structural and economic impacts of climate resiliency at the Federal Emergency Management Agency, including recommendations on how to improve the building codes and standards that the Agency uses to prepare for climate change and address resiliency in housing, public buildings, and infrastructure such as roads and bridges; to the Committee on Transportation and Infrastructure.

By Mr. PETERS (for himself, Mr. GALLAGHER, and Ms. ESHOO):

H.R. 5710. A bill to prohibit certain noncompete agreements, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. PORTER:

H.R. 5711. A bill to designate the facility of the United States Postal Service located at 1 League in Irvine, California, as the ''Tuskegee Airman Lieutenant Colonel Robert J. Friend Memorial Post Office Building''; to the Committee on Oversight and Reform.

By Mr. SHERMAN (for himself, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BROWNLEY of California, Mr. CÁRDENAS, Mr. CLAY, Mr. COHEN, Mr. ESPAILLAT, Mr. GARAMENDI, Mr. JOHNSON of Georgia, Ms. JAYAPAL, Ms. KAPTUR, Mr. KHANNA, Mr. KILDEE, Mr. LYNCH, Mr. MCGOVERN, Ms. MOORE, Mr. MOULTON, Ms. NORTON, Ms. OMAR, Mr. PALLONE, Mr. PANETTA, Mr. RASKIN, Ms. ROYBAL-ALLARD, Ms. SÁNCHEZ, Ms. SCHAKOWSKY, Ms. SPEIER, Mr. SWALWELL of California, Mr. VISCLOSKY, Ms. CLARKE of New York, Mr. VEASEY, and Mr. MEEKS):

H.R. 5712. A bill to repeal the authority under the National Labor Relations Act for States to enact laws prohibiting agreements requiring membership in a labor organization as a condition of employment, and for other purposes; to the Committee on Education and Labor.

By Mr. STEUBE (for himself, Mr. YOHO, and Mr. SPANO):

H.R. 5713. A bill to direct the Secretary of Defense to establish an authority to issue permits to certain members of the Armed Forces who seek to carry concealed firearms while on military installations; to the Committee on Armed Services.

By Mr. TIPTON:

H.R. 5714. A bill to direct the Secretary of Defense to conduct a study on the impacts that the expansion of wilderness designations in the Western United States would have on the readiness of the Armed Forces of the United States with respect to aviation training, and for other purposes; to the Committee on Armed Services.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. RIGGLEMAN:

H.R. 5699.

Congress has the power to enact this legislation pursuant to the following:

This bill is enacted pursuant to the power granted to Congress under Article 1, Section 8, Clause 18 of the United States Constitution.

By Mr. KIM:

H.R. 5700.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8 of the United States Constitution

By Mr. HUDSON:

H.R. 5701.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8 of the Constitution

By Mr. STEUBE:

H.R. 5702.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

By Ms. CASTOR of Florida:

H.R. 5703.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8

By Ms. CHENEY:

H.R. 5704.

Congress has the power to enact this legislation pursuant to the following:

Article 1 Section 8 Section 8:

Powers of Congress. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

&

Article I, Section 8, Clause 3:

The Congress shall have Power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

By Ms. CHENEY:

H.R. 5705.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section VIII, Clause XVIII. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

&

Article IV, Section 111, Clause, II: The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

By Mr. CLINE:

H.R. 5706.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution of the United States.

By Mr. RODNEY DAVIS of Illinois:

H.R. 5707.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. GALLAGHER:

H.R. 5708.

Congress has the power to enact this legislation pursuant to the following:

Article 1 Section 8.

By Mr. NEGUSE:

H.R. 5709.

Congress has the power to enact this legislation pursuant to the following:

Article I Section 8

By Mr. PETERS:

H.R. 5710.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8.

By Ms. PORTER:

H.R. 5711.

Congress has the power to enact this legislation pursuant to the following:

Article 1, Section 8

By Mr. SHERMAN:

H.R. 5712.

Congress has the power to enact this legislation pursuant to the following:

Article I, Section 8 of the Constitution

By Mr. STEUBE:

H.R. 5713.

Congress has the power to enact this legislation pursuant to the following:

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

By Mr. TIPTON:

H.R. 5714.

Congress has the power to enact this legislation pursuant to the following:

section 8 of article I of the Constitution

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions, as follows:

H.R. 19: Mr. WITTMAN.

H.R. 196: Ms. HAALAND.

H.R. 479: Mr. MARSHALL and Mr. GOODEN.

H.R. 530: Mr. BERA.

H.R. 587: Mr. SCHNEIDER.

H.R. 804: Ms. VELÁZQUEZ.

H.R. 884: Mrs. MILLER.

H.R. 906: Mr. AMODEI, Mr. THOMPSON of Pennsylvania, Mr. MAST, Mr. MCGOVERN, Mr. ALLEN, and Mr. LATTA.

H.R. 924: Mr. CORREA.

H.R. 962: Mr. BISHOP of North Carolina.

H.R. 1002: Mrs. KIRKPATRICK.

H.R. 1043: Mr. WITTMAN and Mr. CASE.

H.R. 1154: Mr. BISHOP of Georgia, Ms. KELLY of Illinois, Mr. SERRANO, and Ms. SPEIER.

H.R. 1175: Mrs. FLETCHER.

H.R. 1334: Ms. NORTON.

H.R. 1355: Mr. BISHOP of Georgia and Ms. CASTOR of Florida.

H.R. 1434: Mr. GROTHMAN, Mr. MAST, and Mr. GALLAGHER.

H.R. 1530: Ms. DEGETTE.
H.R. 1695: Mr. HUFFMAN.
H.R. 1749: Mr. COOK.
H.R. 1754: Mr. CLEAVER, Mr. DANNY K. DAVIS of Illinois, Mr. LOEBSACK, Ms. MOORE, Mr. PERLMUTTER, Ms. WATERS, and Mr. BUTTERFIELD.
H.R. 1766: Mr. RUSH and Mr. BILIRAKIS.
H.R. 1770: Mr. DELGADO.
H.R. 1794: Mr. CRENSHAW.
H.R. 1975: Mr. GUEST, Mr. CRAWFORD, and Mr. ROSE of New York.
H.R. 1978: Ms. WILD and Mr. GRIJALVA.
H.R. 2048: Mr. HASTINGS.
H.R. 2117: Mr. PETERS, Mr. CARBAJAL, and Mr. O'HALLERAN.
H.R. 2146: Mr. TED LIEU of California.
H.R. 2148: Mr. CONNOLLY.
H.R. 2201: Mr. HECK.
H.R. 2215: Mr. THOMPSON of California, Ms. WATERS, and Ms. SPEIER.
H.R. 2225: Mr. GRIJALVA.
H.R. 2256: Miss RICE of New York.
H.R. 2258: Mrs. HARTZLER.
H.R. 2264: Mr. HARDER of California.
H.R. 2293: Ms. WILD.
H.R. 2419: Ms. SCHAKOWSKY.
H.R. 2456: Mr. GARAMENDI, Mr. NEAL, Ms. BASS, Mr. SIRES, Mr. LEWIS, Mr. ROY, Mr. LARSON of Connecticut, Ms. MATSUI, Mr. ROUDA, and Mr. RICHMOND.
H.R. 2491: Mr. LAWSON of Florida and Mr. KILDEE.
H.R. 2562: Mr. TRONE.
H.R. 2594: Mrs. MILLER.
H.R. 2639: Mr. BISHOP of Georgia, Mr. BROWN of Maryland, Mr. CARSON of Indiana, Mr. CLYBURN, Ms. JOHNSON of Texas, Mrs. MCBATH, Mr. MEEKS, Mr. PAYNE, Ms. PLASKETT, Mr. RUSH, Ms. SEWELL of Alabama, and Mr. VEASEY.
H.R. 2651: Mr. HASTINGS.
H.R. 2662: Mr. PAYNE.
H.R. 2733: Mr. PAYNE.
H.R. 2777: Mr. CORREA and Mr. NADLER.
H.R. 2863: Mr. O'HALLERAN and Mr. TAKANO.
H.R. 2868: Mr. SCOTT of Virginia.
H.R. 2891: Mr. GARAMENDI and Mr. THOMPSON of Mississippi.
H.R. 2897: Mr. PERRY, Mr. PAPPAS, Mr. DESAULNIER, and Mr. KELLER.
H.R. 3036: Mrs. AXNE.
H.R. 3241: Mr. WALTZ.
H.R. 3244: Mr. PAPPAS.
H.R. 3255: Mr. NEGUSE.
H.R. 3396: Mr. RUSH.
H.R. 3397: Mr. WITTMAN.
H.R. 3404: Ms. DEAN.
H.R. 3414: Mr. ESPAILLAT and Mr. HASTINGS.
H.R. 3467: Mr. KHANNA and Mr. GALLEGO.
H.R. 3545: Mr. HURD of Texas, Ms. JACKSON LEE, Mr. STIVERS, and Mr. ROSE of New York.
H.R. 3562: Mrs. HAYES.
H.R. 3637: Mr. KRISHNAMOORTHI.
H.R. 3654: Miss RICE of New York and Mr. STEUBE.
H.R. 3657: Mr. DELGADO.
H.R. 3714: Mr. HARDER of California.
H.R. 3716: Mr. YOUNG.
H.R. 3742: Mr. ALLRED and Mr. LYNCH.
H.R. 3760: Mr. CORREA and Mr. HUFFMAN.
H.R. 3771: Mrs. BROOKS of Indiana.
H.R. 3796: Mr. BRINDISI and Ms. SLOTKIN.
H.R. 3798: Mrs. MCBATH.
H.R. 3842: Mr. BRINDISI.
H.R. 3918: Mr. KEATING.
H.R. 3975: Ms. CLARKE of New York.
H.R. 3979: Mr. CASE.
H.R. 4078: Mr. CORREA.
H.R. 4090: Mr. PERRY.
H.R. 4097: Mr. STIVERS.
H.R. 4100: Mrs. BROOKS of Indiana.
H.R. 4144: Ms. BROWNLEY of California.
H.R. 4189: Mr. RIGGLEMAN, Mrs. LESKO, Mr. COLE, and Ms. HERRERA BEUTLER.
H.R. 4194: Mr. HAGEDORN and Mr. POCAN.
H.R. 4228: Mr. THOMPSON of Mississippi.
H.R. 4249: Mr. HASTINGS.
H.R. 4256: Mr. PERRY.
H.R. 4296: Mr. POCAN, Mr. ESPAILLAT, and Mr. MALINOWSKI.
H.R. 4326: Mrs. MILLER and Ms. WILSON of Florida.
H.R. 4347: Ms. SPANBERGER.
H.R. 4350: Mr. BISHOP of Georgia and Mr. SCHWEIKERT.
H.R. 4351: Mrs. TORRES of California.
H.R. 4447: Ms. SPANBERGER.
H.R. 4468: Mr. SMUCKER and Mr. CARTWRIGHT.
H.R. 4527: Ms. SLOTKIN.
H.R. 4542: Mr. YOHO, Mr. POSEY, Mr. SOTO, and Ms. CASTOR of Florida.
H.R. 4555: Mr. MCGOVERN and Mr. THOMPSON of Mississippi.
H.R. 4576: Mr. KILMER and Mr. TRONE.
H.R. 4613: Mr. STEUBE.
H.R. 4644: Mr. GONZALEZ of Texas.
H.R. 4679: Mr. KEATING.
H.R. 4754: Mr. RIGGLEMAN.
H.R. 4800: Mr. MOONEY of West Virginia and Mr. KELLY of Pennsylvania.
H.R. 4820: Mr. PANETTA.
H.R. 4822: Mr. KENNEDY.
H.R. 4867: Mr. BERGMAN, Mr. BACON, Mr. RUTHERFORD, Mr. BARR, Miss RICE of New York, Mr. PANETTA, Mr. COOK, Mr. BOST, Mr. LUCAS, and Mr. SIMPSON.
H.R. 4932: Mr. GRIJALVA and Mrs. LESKO.
H.R. 4963: Mr. SCALISE.
H.R. 5002: Mr. JOHNSON of Ohio, Mr. DUNN, Mr. DAVIDSON of Ohio, Mr. DAVID P. ROE of Tennessee, Mr. JOYCE of Pennsylvania, Mr. YOUNG, and Mrs. WAGNER.
H.R. 5064: Mr. CUELLAR.
H.R. 5117: Ms. FINKENAUER.
H.R. 5138: Mr. LEVIN of California.
H.R. 5195: Ms. CASTOR of Florida.
H.R. 5212: Mr. HOLDING.
H.R. 5233: Mr. MAST.
H.R. 5273: Mr. GONZALEZ of Texas, Miss RICE of New York, and Mr. CORREA.
H.R. 5297: Mr. RATCLIFFE, Mr. BISHOP of Georgia, Mr. NEGUSE, and Mr. PALAZZO.
H.R. 5306: Mr. CARTWRIGHT.
H.R. 5319: Mr. LUCAS.
H.R. 5447: Mr. CRENSHAW.
H.R. 5469: Mr. ENGEL.
H.R. 5534: Ms. BLUNT ROCHESTER, Mr. VISCLOSKY, and Mr. HIGGINS of New York.
H.R. 5543: Mr. SIRES, Mr. ROUDA, Ms. MATSUI, and Mr. KILDEE.
H.R. 5544: Mr. ROONEY of Florida and Ms. FINKENAUER.
H.R. 5549: Mr. ROY and Ms. MCCOLLUM.
H.R. 5552: Ms. PINGREE.
H.R. 5589: Ms. PINGREE.
H.R. 5596: Mr. DAVID P. ROE of Tennessee, Mr. DUNCAN, Mr. GOODEN, Mr. GOHMERT, and Mr. CLINE.
H.R. 5602: Mr. DEUTCH.
H.R. 5626: Ms. SCANLON.
H.R. 5628: Mr. MAST, Mr. DIAZ-BALART, Mr. RUTHERFORD, Mr. POSEY, Mr. LAWSON of Florida, Mr. SPANO, and Mr. ROONEY of Florida.
H.R. 5657: Mr. LOUDERMILK.
H.R. 5659: Ms. PINGREE.
H.R. 5661: Mr. WALTZ.
H.R. 5684: Mr. CARTWRIGHT.
H.R. 5690: Ms. WATERS, Mr. GARAMENDI, and Mr. BLUMENAUER.
H.R. 5695: Mrs. LURIA.
H.R. 5697: Ms. BROWNLEY of California.
H.J. Res. 20: Mr. SPANO.
H.J. Res. 66: Mr. GARCÍA of Illinois and Mr. RUSH.
H. Res. 114: Mr. THOMPSON of Pennsylvania.
H. Res. 189: Mr. DELGADO.
H. Res. 255: Mr. KELLER.
H. Res. 319: Mr. DELGADO.
H. Res. 323: Mr. DELGADO.
H. Res. 374: Ms. WILSON of Florida.
H. Res. 672: Mr. CHABOT.
H. Res. 783: Mr. LUETKEMEYER.
H. Res. 787: Mr. DESAULNIER, Mr. DAVID P. ROE of Tennessee, Mr. CICILLINE, and Mrs. LEE of Nevada.
H. Res. 803: Mr. COLE, Mr. RODNEY DAVIS of Illinois, Mr. GIANFORTE, and Mr. WALTZ.
H. Res. 809: Mr. ALLRED, Mr. VARGAS, and Mr. BERA.
H. Res. 810: Mr. WENSTRUP.
H. Res. 813: Mr. CARTWRIGHT.

CORRECTION

United States of America

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Senate

The Senate met at 1:13 p.m. and was called to order by the Chief Justice of the United States.

TRIAL OF DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment.

The Chaplain will lead us in prayer.

PRAYER

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

Let us pray.

Divine Shepherd, honor, glory, and power belong to You. Refresh our Senators as they enter a new phase of this impeachment trial. May they realize that You have appointed them for this great service, and they are accountable to You.

Lord, empower them to labor today with the dominant purpose of pleasing You, knowing that it is never wrong to do right. Give them resiliency in their toil, as they remember Your promise that they will reap a bountiful harvest if they don't give up. Help them to follow the road of humility that leads to honor, as they find their safety in trusting You.

We pray in Your majestic Name. Amen.

PLEDGE OF ALLEGIANCE

The Chief Justice 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 JOURNAL

The CHIEF JUSTICE. If there is no objection, the Journal of proceedings of the trial is approved to date.

Without objection, it is so ordered.

The Sergeant at Arms will make the proclamation.

The Sergeant at Arms, Michael C. Stenger, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Donald John Trump, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. Chief Justice, today the Senate will conduct up to 8 hours of questions to the parties delivered in writing to the Chief Justice. As a reminder, the two sides will alternate and answers should be kept to 5 minutes or less.

The majority side will lead off with a question from the Senator from Maine.

Ms. COLLINS. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator is recognized.

Ms. COLLINS. I send a question to the desk on behalf of myself, Senator MURKOWSKI, and Senator ROMNEY.

The CHIEF JUSTICE. This is a question for the counsel for the President:

If President Trump had more than one motive for his alleged conduct, such as the pursuit of personal political advantage, rooting out corruption, and the promotion of national interests, how should the Senate consider more than one motive in its assessment of article I?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, in response to that question, there are really two layers to my answer because I would like to point out first that, even if there was only one motive, the theory of abuse of power that the House managers have presented, that the subjective motive alone can become the basis for an impeachable offense, we believe is constitutionally defective. It is not a permissible way to frame a claim of an impeachable offense under the Constitution.

I will put that aside and address the question of mixed motive. If there were a motive that was of public interest and also of some personal interest, we think it follows even more clearly that that cannot possibly be the basis for an impeachable offense. Even the House managers, as they have framed their case, they have explained—and this is pointed out in our trial memorandum—that in the House Judiciary Committee report, they specify that the standard they have to meet is to show that this is a sham investigation; it is a bogus investigation. These investigations have—there is not any legitimate public purpose. That is the language: any ''legitimate public purpose.'' That is the standard they have set for themselves in being able to make this claim under their theory of what an abuse of power offense can be.

It is a very demanding standard that they have set for themselves to meet, and they have even said—they came up, and they talked a lot about the Bidens. They talked a lot about these issues and 2016 election interference because they were saying there is not even a scintilla—a scintilla of any evidence of anything worth looking into there. And that is the standard that they would have to meet, showing that there is no possible public interest and the President couldn't have had any smidgeon, even, of a public interest motive because they recognize that once you get into a mixed-motive situation—if there is both some personal motive but also a legitimate public interest motive—it can't possibly be an offense because it would be absurd to have the Senate trying to consider: Well, was it 48 percent legitimate interest and 52 percent personal interest or was it the other way, was it 53 percent and 47 percent? You can't divide it that way.

That is why they recognize that to have even a remotely coherent theory, the standard they have to set for themselves is establishing there is no possible public interest at all for these investigations. And if there is any possibility, if there is something that shows a possible public interest and the President could have that possible public interest motive, that destroys their case. So once you are into mixed-motive

land, it is clear that their case fails. There can't possibly be an impeachable offense at all.

Think about it. All elected officials, to some extent, have in mind how their conduct, how their decisions, their policy decisions will affect the next election. There is always some personal interest in the electoral outcome of policy decisions, and there is nothing wrong with that. That is part of representative democracy. And to start saying now that, well, if you have a part motive that is for your personal electoral gain that that somehow is going to become an offense, it doesn't make any sense and it is totally unworkable and it can't be a basis for removing a President from office.

The bottom line is, once you are into any mixed-motive situation, once it is established that there is a legitimate public interest that could justify looking into something, just asking a question about something, the managers' case fails, and it fails under their own terms. They recognize that they have to show no possible public interest. There isn't any legitimate public interest, and they have totally failed to make that case.

I think we have shown very clearly that both of the things that were mentioned, 2016 election interference and the Biden-Burisma situation, are things that raise at least some public interest; there is something worth looking at there. It has never been investigated in the Biden situation. Lots of their own witnesses from the State Department said that on its face it appears to be a conflict of interest. It is at least worth raising a question about or asking a question about it. And there is that public interest, and that means their case absolutely fails.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Democratic leader is recognized.

Mr. SCHUMER. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The Democratic leader asks of the House managers:

John R. Bolton's forthcoming book states that the President wanted to continue withholding $391 million in military aid to Ukraine until Ukraine announced investigations into his top political rival and the debunked conspiracy theory about the 2016 election. Is there any way for the Senate to render a fully informed verdict in this case without hearing the testimony of Bolton, Mulvaney, and the other key eyewitnesses or without seeing the relevant documentary evidence?

Mr. Manager SCHIFF. Thank you, Mr. Chief Justice.

The short answer to that question is no. There is no way to have a fair trial without witnesses. And when you have a witness who is as plainly relevant as John Bolton, who goes to the heart of the most serious and egregious of the President's misconduct, who has volunteered to come and testify, to turn him away, to look the other way, I think, is deeply at odds with being an impartial juror.

I would also add, in response to the last question, that if any part of the President's motivation was a corrupt motive, if it was a causal factor in the action to freeze the aid or withhold the meeting, that is enough to convict. It would be enough to convict under criminal law.

But here there is no question about the President's motivation. And if you have any question about the President's motivation, it makes it all the more essential to call the man who spoke directly with the President, whom the President confided in and said he was holding up this aid because he wanted Ukraine to conduct these political investigations that would help him in the next election—if you have any question about whether it was a factor, the factor, a quarter of the factor, all of the factor, there is a witness a subpoena away who could answer that question.

But the overwhelming body of the evidence makes it very clear, on July 26, the day after that phone call, Donald Trump speaks to Gordon Sondland. That is that conversation at a Ukraine restaurant. What does Gordon Sondland—what is the President's question of Gordon Sondland the day after that call? Is he going to do the investigations?

Counsel for the President would have you believe the President was concerned about the burden-sharing. Well, he may have had a generic concern about the burden-sharing in other contexts, but here the motivation was abundantly clear. On that phone with Gordon Sondland, the only question he wanted an answer to was, Is he going to do the investigation?

Now, bear in mind he is talking to the Ambassador to the European Union. What better person to talk to if his real concern was about burden-sharing than the guy responsible for Europe's burden-sharing? But did the President raise this at all? Of course not. Of course not. And if you have any question about it at all, you need to hear from his former National Security Advisor. Don't wait for the book. Don't wait until March 17, when it is in black and white, to find out the answer to your question: Was it all the motive, some of the motive, or none of the motive?

We think, as I mentioned, the case is overwhelmingly clear without John Bolton, but if you have any question about it, you can erase all doubt.

Let me show a video to underscore—No. 2, slide 2—how important this is.

(Text of Videotape presentation:)

Mr. Counsel CIPOLLONE. As House managers, really their goal should be to give you all of the facts because they are asking you to do something very, very consequential . . . and ask yourself, ask yourself, given the facts you heard today that they didn't tell you, who doesn't want to talk about the facts? Who doesn't want to talk about the facts?

Impeachment shouldn't be a shell game. They should give you the facts.

Mr. Manager SCHIFF. One last video, which is even more important and on point for Mr. Bolton—No. 3.

(Text of Videotape presentation:)

Mr. Counsel PURPURA. And once again, not a single witness in the House record that they compiled and developed under their procedures that we discussed and will continue to discuss provided any firsthand evidence that the President ever linked the Presidential meeting to any of the investigations.

Anyone who spoke with the President said that the President made it clear that there was no linkage between security assistance and investigations.

Mr. Manager SCHIFF. We know that is not correct, right? Because, of course, Mick Mulvaney said that the money was linked to these investigations. He said, in acknowledging a quid pro quo, that they do it all the time, and we should just get over it. Gordon Sondland also said the President said, on the one hand, no quid pro quo but also made it clear that Zelensky had to go to the mic and announce these investigations.

The CHIEF JUSTICE. The gentleman's time has expired.

Mr. Manager SCHIFF. Thank you, Mr. Chief Justice.

The Senator is recognized.

Mr. THUNE. I have a question for the President's counsel.

The CHIEF JUSTICE. To the President's counsel:

Would you please respond to the arguments or assertions the House managers just made in response to the previous question?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, a couple of points that I would like to make.

Manager SCHIFF suggested that there was no evidence the President was actually interested in burden-sharing because he didn't, apparently, according to David Hale, raise it in the telephone conversation he had with Gordon Sondland that Hale seems to have overheard in a restaurant in Kiev.

Let's look at the real evidence.

As we explained, on June 24, there is an email in the record. It is an email from one person at the Department of Defense to another, with the subject line: ''POTUS' follow-up''—President of the United States' follow-up—asking specifically about burden-sharing.

It reads: ''What do other NATO members spend to support Ukraine?''

That was what they were following up on for the President.

In the transcript of the July 25 call itself, the President said:

We spend a lot of effort and a lot of time on Ukraine, much more than the European countries are doing, and they should be helping you more than we are. Germany does almost nothing for you. All they do is talk, and I think it is something you should really ask them about.

He goes on to say that he talks to Angela Merkel about it and that they are not really doing as much as the United States is doing. He is raising burden-sharing, and President Zelensky agreed with him.

Manager SCHIFF also suggested that there is evidence of some connection

between the military assistance and investigations into 2016 election interference because of a statement that Acting Chief of Staff Mulvaney made at a press conference, but that has been made clear in the record, since that press conference, that what he was saying was garbled and/or misunderstood. He immediately clarified and said on that date: ''The President never told me to withhold any money until the Ukrainians did anything related to the server.''

Similarly, he issued a statement just the other day, making clear again—this is from his counsel; so it is phrased in the third person: ''. . . nor did Mr. Mulvaney ever have a conversation with the President or anyone else indicating that Ukrainian military aid was withheld in exchange for the Ukrainian investigation of Burisma, the Bidens, or the 2016 election.''

That was Mr. Mulvaney's statement.

Lastly, as to the point of whether this Chamber should hear from Ambassador Bolton—and I think it is important to consider what that means, because it is not just a question of, well, should we just hear one witness? That is not what the real question is going to be.

For this institution, the real question is, What is the precedent that is going to be set for what is an acceptable way for the House of Representatives to bring an impeachment of a President of the United States to this Chamber, and can it be done in a hurried, half-baked, partisan fashion?

They didn't even subpoena John Bolton. They didn't even try to get his testimony. To insist now that this body will become the investigative body—that this body will have to do all of the discovery—then, this institution will be effectively paralyzed for months on end because it will have to sit as a Court of Impeachment while now discovery will be done. It would be Ambassador Bolton, and if there are going to be witnesses, in order for there to be, as they said, a fair trial, fair adjudication, then, the President would have to have his opportunity to call his witnesses, and there would be depositions. This would drag on for months. Then that will be the new precedent. Then that is the way all impeachments will operate in the future, where the House doesn't have to do the work—it does it quickly and throws it over the transom—and this institution gets derailed and has to deal with it. That should not be the precedent that is set here for the way this body will have to handle all impeachments in the future, because, if it becomes that easy for the House to do it, it will be doing it a lot.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Massachusetts.

Mr. MARKEY. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question from Senator MARKEY to the House managers:

On Monday, President Trump tweeted, ''The Democrat controlled House never even asked John Bolton to testify.'' So that the record is accurate, did House impeachment investigators ask Mr. Bolton to testify?

Mr. Manager SCHIFF. Senators, the answer is yes. Of course, we asked John Bolton to testify in the House, and he refused. We asked his deputy, Dr. Kupperman, to testify, and he refused. Fortunately, we asked their deputy, Dr. Fiona Hill, to testify, and she did. We asked her deputy, Colonel Vindman, to testify, and he did. We did seek the testimony of John Bolton as well as Dr. Kupperman, and they refused.

When we subpoenaed Dr. Kupperman, he sued us. He took us to court. When we raised a subpoena with John Bolton's counsel, the same counsel for Dr. Kupperman, the answer was, ''Senator, you serve us with a subpoena, and we will sue you, too.'' We knew, based on the McGahn litigation, it would take months, if not years, to force John Bolton to come and testify.

Because, I think, this is an essential point to underscore, as the President's lawyers say, ''They didn't try hard enough to get John Bolton,'' or ''they should have subpoenaed John Bolton''—that this is what they are telling you—let me show you what they are telling the court in the McGahn litigation, if we could pull up slide 39.

This is from the President's lawyers who are in the court of appeals right now in the McGahn litigation: ''The committee [meaning our committee] lacks article III standing to sue to enforce a congressional subpoena demanding testimony from an individual on matters related to his duties as an Executive Branch official.''

I mean, it takes your breath away, the duplicity of that argument. They are before you, saying: They should have tried harder to get these witnesses. They should have subpoenaed. They should have litigated for years; and down the street in the Federal courthouse, they are arguing: Judge, you need to throw them out. They have no standing to sue to force a witness to testify.

Are we really prepared to accept that?

Counsel says to think about the precedent we would be setting if you allow the House to impeach a President and you permit them to call witnesses. I would submit: Think about the precedent you would be setting if you don't allow witnesses in a trial. That, to me, is the much more dangerous precedent here.

I will tell you something even more dangerous, and this was something that we anticipated from the very beginning, which is that we understood, when we got to this point, they could no longer contest the facts that the President withheld military aid from an ally at war to coerce that ally into doing the President's political dirty work. So now they have fallen back on, You shouldn't hear any further evidence or any further witnesses on this subject.

What is more, we are going to use the end-all argument: So what? The President is free to abuse his power. We are going to rely on a constitutional theory—a fringe theory—that even the advocate of which says is outside the consensus of constitutional law to say that a President can abuse his power with impunity. Imagine where that leads. The President can abuse his power with impunity.

That argument made by Professor Dershowitz is at odds with the Attorney General's own expressed opinion on the subject, with Ken Starr's expressed opinion on the subject, and with other counsel for the President. Jonathan Turley, who testified in the House, said that theory is constitutionally, effectively, nonsense. Even 60-year-old Alan Dershowitz doesn't agree with 81-year-old Alan Dershowitz and for a reason—because where that conclusion leads us is that a President can abuse his power in any kind of way, and there is nothing you can do about it.

Are we really ready to accept the position that this President or the next can withhold hundreds of millions of dollars of military aid to an ally at war unless he gets help in his reelection?

Would you say that you could, as President, withhold disaster relief from a Governor unless that Governor got his Attorney General to investigate the President's political rival?

That, to me, is the most dangerous argument of all. It is a danger to have a President engage in this conduct, and it is dangerous to have a trial with no witnesses and set that precedent. The biggest danger of all would be to accept the idea that a President could abuse his office in this way and that the Congress is powerless to do anything about it. That is certainly not what the Founders intended.

The CHIEF JUSTICE. The Senator from Tennessee.

Mrs. BLACKBURN. Mr. Chief Justice, I send a question to the desk on my behalf. I am also joined by Senators LOEFFLER, CRAMER, LEE, and MCSALLY.

The CHIEF JUSTICE. Senators BLACKBURN, LOEFFLER, CRAMER, LEE, and MCSALLY ask of counsel for the President:

Is the standard for impeachment in the House a lower threshold to meet than the standard for conviction in the Senate, and have the House managers met their evidentiary burden to support a vote of removal?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, as for the standard in the House, of course, the House is not making a final determination. In the structure of the Constitution, an impeachment is simply an accusation, and as in most systems where there is simply an accusation being made, the House does not have to adhere to the same standard that is used in the Senate.

In most instances, House Members have suggested in debates on articles—

of whether or not to approve Articles of Impeachment—that they should have clear and convincing evidence in the view of the Members voting on it that there was some impeachable offense, and that is all—some, not even that standard. So there is simply enough evidence that an accusation can be made. It is definitely a lower standard than the standard that has to be met here in a trial for an ultimate verdict.

The Constitution speaks in terms of a conviction in the Senate. As both Professor Dershowitz and Judge Starr pointed out in their comments, everywhere in the Constitution in which there is any mention of impeachment, it is spoken of in terms of the criminal law. The offenses that define the jurisdiction for the Senate in its sitting as a Court of Impeachment are treason, bribery, and high crimes and misdemeanors. The Constitution speaks of a conviction, upon being convicted in the Senate. It speaks of all crimes being tried by a jury except in cases of impeachment—again, suggesting notions of the criminal law.

As we pointed out in our trial memorandum, all of these textual references make it clear that the standards of the criminal law should apply in the trial, certainly to the extent of the burden and standard of proof to be carried by the House managers, which means proof beyond a reasonable doubt. It is very clear that there is not any requirement for proof beyond a reasonable doubt simply for the House to vote upon Articles of Impeachment.

There is a very much higher standard at stake here. As we pointed out in our trial memorandum, the mere accusation made by the House comes here with no presumption of regularity at all in its favor. The Senate sits as a trier of both fact and law, reviewing both factual and legal issues de novo, and the House managers are held to a standard of proving proof beyond a reasonable doubt of every element of what would be a recognizable impeachable offense.

Here they have failed in their burden of proof. They have also failed in the law. They have not stated in the Articles of Impeachment anything that on its face amounts to an impeachable offense. On that fact, I think we have demonstrated very clearly that they have not presented facts that would amount to an impeachable offense even under their own theories. They have presented only part of the facts and left out the key facts. Mr. Purpura, I think, went through, very effectively, showing that there are some facts that don't change.

The transcript of the July 25 call shows the President doing nothing wrong. President Zelensky said he never felt any pressure. His other advisers have said the Ukrainians never felt any pressure. They didn't think there was any quid pro quo. They didn't even know that the military assistance had been held up until the POLITICO article at the end of August.

The only two people with statements on record who spoke to the President, Gordon Sondland and Senator RON JOHNSON, report that the President said to them there was no quid pro quo, and the aid flowed without anything ever being done related to investigations.

That is what is in the record. That is what the House managers have to rely on to make their case, and they have failed to prove their case beyond a reasonable doubt, failed even to prove it by clear and convincing evidence—failed to prove it at all, in my opinion.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. Chief Justice, I send a question to the House managers.

The CHIEF JUSTICE. Senator FEINSTEIN asks the House managers:

> The President's counsel stated that ''there is simply no evidence anywhere that President Trump ever linked security assistance to any investigations''—is that true?

Mr. Manager CROW. Thank you, Mr. Chief Justice, and thank you, Senator, for that question.

President's counsel is not correct. There is, in fact, overwhelming evidence that the President withheld the military aid directly to get a personal political benefit to help his individual political campaign.

There are a few points that I would like to submit for your consideration.

First, look no further than the words of the President's Acting Chief of Staff, Mick Mulvaney, who, on October 17, 2019, during a national press conference mentioned—or he was asked about the direct connection between the aid, and he said ''Did he''—meaning President Trump, referring to ''he''—''also mention to me in passing the corruption related to the DNC server? Absolutely—no question about that. That's it, and that's why we held up the money.''

He was repeating the President's own explanation relayed directly to him.

Second, Gordon Sondland testified he spoke by phone with President Trump on September 7. The President denied there was a ''quid pro quo,'' but then outlined the very quid pro quo that he wanted from Ukraine.

Then he told Ambassador Sondland that President Zelensky should ''go to a microphone and announce the investigations . . . he should want to do [it].''

Third, the President's own advisers, including the Vice President and Secretary Pompeo, were also aware of the direct connection. In Warsaw, on September 1, Ambassador Sondland told Vice President PENCE that he was concerned the delay in security assistance had become ''tied to the issue of investigations.'' The Vice President simply nodded, tacitly acknowledging the conditionality of the aid.

Fourth, we heard from Ambassador Taylor, who, in direct emails and texts, said it was crazy to tie the security assistance to the investigations.

Five, we also know there is no other reason. The entire apparatus and structure of the Defense Department, the State Department that should have been dealing with the other legitimate reasons—you know, the policy debate that the President's counsel wants you to believe that this was about—they were all kept in the dark.

And the supposed interagency process that they made up several months after the fact had ended months before, during the last interagency meetings.

Now I will make one final point. Again, if you have any lingering questions about direct evidence, any thoughts about anything we just talked about, anything I have just relayed or that we have talked about the last week, there is a way to shed additional light on it: You can subpoena Ambassador Bolton and ask him that question directly.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Utah.

Mr. LEE. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Senators LEE and CRUZ ask of counsel for the President:

> The House managers have argued aggressively that the President's actions contravened U.S. foreign policy. Isn't it the President's place—certainly more than the place for career civil servants—to conduct foreign policy?

Mr. Manager PHILBIN. Thank you, Mr. Chief Justice, Senators, and thank you for that question.

It is definitely the President's place to set U.S. foreign policy, and the Constitution makes this clear. Article II, section 1 vests the entirety of the executive authority in a President of the United States, and it is critically important in our constitutional structure that that authority is vested solely in the President because the President is elected by the people every 4 years. That is what gives the President democratic legitimacy to have the powers that he is given under the Constitution.

Our system is somewhat unique in the very broad powers that are assigned to the Executive, but it works, and it makes sense in a democratic system precisely because he is directly accountable to the people for the policies that he sets.

Those who are staffers in the executive branch bureaucracy are not elected by the people. They have no accountability, and they have no legitimacy or authority that comes from an election by the people, and so it is critically important to recognize the President sets foreign policy.

Of course, within some constraints, there are some roles for Congress in foreign affairs. To some extent, statutes can be passed, funding provisions can be passed that relate to it, but the Supreme Court has recognized time and again that the President is, as the Court said in Curtiss-Wright, the ''sole organ of the nation'' in foreign affairs.

So he sets foreign policy, and if staffers disagree with him, that does not mean that the President is doing something wrong, and this is a critical point because this is one of the centerpieces of the abuse of power theory that the House managers would like this body to adopt, and that is that they are going to impeach the President based solely on his subjective motive.

The premise of their case is the objective actions that were taken were perfectly permissible and within the President's constitutional authority, but if his real reason—if we get inside his head and figure it out—then we can impeach him. And the way that they have tried to explain that they can prove that the President had a bad motive is they say: Well, we compare what did the President want to do with what the interagency consensus was.

And I mentioned this the other day. They say that the President defied and confounded every agency in the executive branch. That is a constitutionally incoherent statement. The President cannot defy the agencies within the executive branch that are subordinate to him. It is only they who can defy the President's determinations of policy.

And so what this all boils down to is it shows that this case is built upon a policy difference and a policy difference where the President is the one who gets to determine policy because he has been elected by the people to do that.

And we are right now only a few months away from another election where the people can decide for themselves whether they like what the President has done with that authority or not, and that is the way disputes about policy like that should be resolved.

It is not legitimate to say that there is some interagency consensus that disagrees with the President, and therefore we can show he did something wrong, and therefore he can be impeached. That is an extraordinarily dangerous proposition because it lacks any democratic legitimacy whatsoever. It is contrary to the Constitution, and it should be rejected by this body.

The President is the one who gets to set foreign policy because that is the role assigned to him in the Constitution.

And it was even Lieutenant Colonel Vindman, who had complained about the July 25 call, himself ultimately agreed that it was only a policy difference; it was a policy concern that he raised about the call. That is not enough to impeach a President of the United States.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Senator SHAHEEN asks the House managers:

The President's counsel has argued that the alleged conduct set out in the articles does not violate a criminal statute and thus may not constitute grounds for impeachment as ''high Crimes and Misdemeanors.'' Does this reasoning imply that if the President does not violate a criminal statute he could not be impeached for abuses of power such as ordering tax audits of political opponents, suspending habeas corpus rights, indiscriminately investigating political opponents or asking foreign powers to investigate Members of Congress?

Ms. Manager GARCIA of Texas. Mr. Chief Justice, Senators, I appreciate the question.

The simple answer is that a President can be impeached without a statutory crime being committed. That was the position and the question that was rejected in President Nixon's case and rejected again in President Clinton's case. It should be rejected here in President Trump's case.

The great preponderance of legal authority confirms that impeachable offenses—of legal authority confirms that it is not defined in criminal conduct. This authority includes nearly every legal scholar who has studied the issue, multiple Supreme Court Justices who addressed it in public remarks, and prior impeachments in the House.

This conclusion follows that constitutional history, text, and structure and reflects the absurdities and practical difficulties that would result were the impeachment power confined to indictable crimes.

As slide 35 shows, first, the plain text of the Constitution does not require that an offense be a crime in order for it to be impeachable.

Alexander Hamilton explained that impeachable offenses, high crimes, and misdemeanors are defined fundamentally by the abuse or violation of some public trust—some public trust. They are political as they relate chiefly to injuries done immediately to society itself.

Offenses against the Constitution are different than offenses against the Criminal Code. Some crimes, like jaywalking, are not impeachable, and some forms of misconduct often both offend the Constitution and the criminal law.

Impeachment and criminality must, therefore, be assessed separately, even though the President's commission of indictable crimes may further support a case of impeachment and removal.

The American experience with impeachment confirms this. A strong majority of impeachments voted by the House since 1789 have included one or more allegations that did not charge a violation of criminal law.

Although President Nixon resigned before the House could consider the Articles of Impeachment against him, the Judiciary Committee's allegations encompassed many, many noncriminal acts.

And in President Clinton's case, the Judiciary Committee report accompanying the Articles of Impeachment to the House floor stated that ''the actions of President Clinton do not have to rise to the level of violating the Federal statute regarding obstruction of justice in order to justify impeachment. . . . The Framers intended impeachment to reach the full spectrum of Presidential misconduct that threatened the Constitution. They also intended that our Constitution endure throughout the ages.''

In other words, if it named one, two, and three, but new ones came up and you had to keep up with the times, it was better to have the full spectrum of Presidential misconduct. Because it could not anticipate and specifically prohibit every single threat a President might someday pose, the Framers adopted a standard sufficiently general and flexible to meet unknown future circumstances. This standard was meant, as Mason put it, to capture ''all manner of great and dangerous offences,'' and compatible with the Constitution.

When the President uses the powers of his high office to benefit himself while injuring or ignoring the very people he is duty-bound to serve, he has committed an impeachable offense.

The records of the Constitutional Convention offer further clarity. At the Constitutional Convention itself, no delegate—no delegate—linked impeachment to the technicalities of criminal law. Instead, the Framers principally intended impeachment for three forms of Presidential wrongdoing, the ABCs of impeachment: A, abuse of power; B, betrayal of the national interests through foreign entanglements; and C, corruption of office and elections.

When the President uses his power to obtain illicit help in his election from a foreign power, it undermines our national security and election integrity. It is a trifecta.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Louisiana.

Mr. KENNEDY. Mr. Chief Justice, along with Senator BLACKBURN and Senator CORNYN, I send a question to the desk for the House managers and for counsel to the President.

The CHIEF JUSTICE. In the case of such a question, addressed to both sides, they will split the 5 minutes equally.

The Senators ask:

Why did the House of Representatives not challenge President Trump's claims of executive privilege and/or immunity during the House impeachment proceedings?

We will begin with the House managers.

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Senators, thank you for your question. The answer is simple. We did not challenge any claims related to executive privilege because, as the President's own counsel admitted during this trial, the President never raised the question of executive privilege.

What the President did raise was this notion of blanket defiance, this notion that the executive branch, directed by the President, could completely defy any and all subpoenas issued by the

House of Representatives, not turn over documents, not turn over witnesses, not produce a single shred of information in order to allow us to present the truth to the American people.

In the October 8 letter that was sent to the House of Representatives, there was no jurisprudence that was cited to justify the notion of blanket defiance. There has been no case law cited to justify the doctrine of absolute immunity. In fact, every single court that has considered any Presidential claims of absolute immunity such as the one asserted by the White House has rejected it out of hand.

The CHIEF JUSTICE. Counsel for the President.

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for that question.

Let me frame this partly in response to what Manager JEFFRIES said, and I went through this before. The idea that there was blanket defiance and no explanation and no case law from the White House is simply incorrect. I put up slides showing the letter—the letter from October 18 that explains specifically that the subpoenas that had been issued by the House, because they were not authorized by a vote from the House, were invalid. And there was a letter from the White House counsel saying that. There was a letter from OMB saying that. There was a letter from the State Department saying that. There was specific rationale given, citing cases—Watkins, Rumely, and others—explaining that defect. The House managers—the House, Manager SCHIFF—chose not to take any steps to correct that.

We also pointed out other defects.

We asserted the doctrine of absolute immunity for senior advisers to the President, which has been asserted by every President since the 1970s. They chose not to challenge that in court.

We also explained the problem that they didn't allow agency counsel to be present at depositions. They chose not to challenge that in court.

These are specific legal reasons, not blanket defiance. That is a misrepresentation of the record. And there was no attempt to have that adjudicated in court. The reason there was no attempt is that the House Democrats were just in a hurry. They had a timetable. One of the House managers said on the floor here—they had no time for courts. They had to impeach the President before the election, so they had to have that done by Christmas. That is why the proper process wasn't followed here, because it was a partisan and political impeachment that they wanted to get done all around timing for the election.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Vermont.

Mr. LEAHY. Mr. Chief Justice, I have a question for the House managers, and I send it to the desk.

The CHIEF JUSTICE. Senator LEAHY asks the House managers:

The President's counsel argues that there was no harm done, that the aid was ultimately released to Ukraine, the President met with Zelensky at the U.N. in September, and that this President has treated Ukraine more favorably than his predecessors. What is your response?

Mrs. Manager DEMINGS. Mr. Chief Justice, Senators, thank you so much for your question.

Contrary to what the White House counsel has said or has claimed—that there was no harm, no foul; that the aid eventually got there—we promised Ukraine in 2014 that if they gave up their nuclear arsenal, that we would be there for them, that we would defend them, that we would fight along beside them.

Fifteen thousand Ukrainians have died. It was interesting the other day when the White House counsel said that no American life was lost, and we are always grateful and thankful for that. But what about our friends? What about our allies in Ukraine? According to Diplomat Holmes and Ambassador Taylor, our Ukrainian friends continue to die on the frontlines, those who are fighting for us, fighting Russian aggression. When the Ukrainians have the ability to defend themselves, they have the ability to defend us.

The aid, although it did arrive, took the work of some Senators in this room who had to pass additional laws to make sure that the Ukrainians did not lose out on 35 million additional dollars.

Contrary to the President's tweet that all of the aid arrived and that it arrived ahead of schedule—that is not true. All of the aid had not arrived.

Let's talk about what kind of signal is sent, withholding the aid for no legitimate reason. The President talked about burden-sharing, but nothing had changed on the ground. Holding the aid for no legitimate reason sent a strong message that we would not want to send to Russia—that the relationship between the United States and Ukraine was on shaky ground. It actually undercut Ukraine's ability to negotiate with Russia, with which, as everybody in this room knows, it is in an active war, in a hot war.

So when we talk about ''The aid eventually got there; no harm, no foul,'' that is not true, Senators, and I know that you know that. There was harm and there was foul. And let us not forget that Ukraine is not an enemy. They are not an adversary. They are a friend.

The CHIEF JUSTICE. Thank you.

Senator CRUZ?

Mr. CRUZ. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question is addressed to counsel for the President:

As a matter of law, does it matter if there was a quid pro quo? Is it true that quid pro quos are often used in foreign policy?

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, thank you very much for your question.

Yesterday, I had the privilege of attending the rolling-out of a peace plan by the President of the United States regarding the Israel-Palestine conflict, and I offered you a hypothetical the other day: What if a Democratic President were to be elected and Congress were to authorize much money to either Israel or the Palestinians and the Democratic President were to say to Israel ''No; I am going to withhold this money unless you stop all settlement growth'' or to the Palestinians ''I will withhold the money Congress authorized to you unless you stop paying terrorists, and the President said ''Quid pro quo. If you don't do it, you don't get the money. If you do it, you get the money''? There is no one in this Chamber who would regard that as in any way unlawful. The only thing that would make a quid pro quo unlawful is if the quo were in some way illegal.

Now, we talked about motive. There are three possible motives that a political figure can have: One, a motive in the public interest, and the Israel argument would be in the public interest; the second is in his own political interest; and the third, which hasn't been mentioned, would be in his own financial interest, his own pure financial interest, just putting money in the bank. I want to focus on the second one for just one moment.

Every public official whom I know believes that his election is in the public interest. Mostly, you are right. Your election is in the public interest. If a President does something which he believes will help him get elected—in the public interest—that cannot be the kind of quid pro quo that results in impeachment.

I quoted President Lincoln, when President Lincoln told General Sherman to let the troops go to Indiana so that they could vote for the Republican Party. Let's assume the President was running at that point and it was in his electoral interests to have these soldiers put at risk the lives of many, many other soldiers who would be left without their company. Would that be an unlawful quid pro quo? No, because the President, A, believed it was in the national interest, but B, he believed that his own election was essential to victory in the Civil War. Every President believes that. That is why it is so dangerous to try to psychoanalyze the President, to try to get into the intricacies of the human mind.

Everybody has mixed motives, and for there to be a constitutional impeachment based on mixed motives would permit almost any President to be impeached.

How many Presidents have made foreign policy decisions after checking with their political advisers and their pollsters? If you are just acting in the national interest, why do you need pollsters? Why do you need political advisers? Just do what is best for the country. But if you want to balance what is in the public interest with what is in your party's electoral interest and your own electoral interest, it

is impossible to discern how much weight is given to one or the other.

Now, we may argue that it is not in the national interest for a particular President to get reelected or for a particular Senator or Member of Congress—and maybe we are right; it is not in the national interest for everybody who is running to be elected—but for it to be impeachable, you would have to discern that he or she made a decision solely on the basis of, as the House managers put it, corrupt motives, and it cannot be a corrupt motive if you have a mixed motive that partially involves the national interest, partially involves electoral, and does not involve personal pecuniary interest.

The House managers do not allege that this decision, this quid pro quo, as they call it—and the question is based on the hypothesis there was a quid pro quo. I am not attacking the facts. They never allege that it was based on pure financial reasons. It would be a much harder case.

If a hypothetical President of the United States said to a hypothetical leader of a foreign country: Unless you build a hotel with my name on it and unless you give me a million-dollar kickback, I will withhold the funds. That is an easy case. That is purely corrupt and in the purely private interest.

But a complex middle case is: I want to be elected. I think I am a great President. I think I am the greatest President there ever was, and if I am not elected, the national interest will suffer greatly. That cannot be.

The CHIEF JUSTICE. Thank you, counsel.

Mr. DERSHOWITZ. Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. I recognize the democratic leader.

Mr. SCHUMER. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Senator SCHUMER's question is for the House managers:

Would you please respond to the answer that was just given by the President's counsel?

Mr. Manager SCHIFF. I would be delighted. There are two arguments that Professor Dershowitz makes: one that is, I have to say, a very odd argument for a criminal defense lawyer to make, and that is, it is highly unusual to have a discussion in trial about the defendant's state of mind, intent, or mens rea.

In every courtroom in America, in every criminal case—or almost every criminal case, except for a very small sliver where there is strict liability—the question of the defendant's intent and state of mind is always an issue. This is nothing novel here. You don't require a mind reader. In every criminal case—and I would assume in every impeachment case—yes, you have to show that the President was operating from a corrupt motive, and we have.

But he also makes an argument that all quid pro quos are the same and all are perfectly copacetic. Now, some of you said earlier: Well, if they could prove a quid pro quo over the military, now that would be something. Well, we have. So now the argument shifts to all quid pro quos are just fine, and they are all the same.

Well, I am going to apply Professor Dershowitz's own test. He talked about the step test, John Rawls, the philosopher—let's put the shoe on the other foot and see how that changes our perception of the case. I want to merge that argument with one of the other Presidential counsel's argument when they resorted to the whataboutism about Barack Obama's open mic.

Now, that was a very poor analogy, I think you will agree, but let's use that analogy and let's make it more comparable to today and see how you feel about this scenario.

President Obama, on an open mic, said to Medvedev: Hey, Medvedev, I know you don't want me to send this military money to Ukraine because they are fighting and killing your people. I want you to do me a favor, though. I want you to do an investigation of MITT ROMNEY, and I want you to announce you found dirt on MITT ROMNEY, and if you are willing to do that, quid pro quo, I will not give Ukraine the money they need to fight you on the frontline.

Do any of us have any question that Barack Obama would be impeached for that kind of misconduct? Are we really ready to say that would be OK, that Barack Obama asked Medvedev to investigate his opponent and would withhold money from an ally that needed to defend itself to get an investigation of MITT ROMNEY?

That is the parallel here. And to say, well, yes, we condition aid all the time—for legitimate reasons, yes. For legitimate reasons, you might say to a Governor of a State: Hey, Governor of the State, you should chip in more toward your own disaster relief. But if the President's real motive in depriving the State of disaster relief is because that Governor will not get his attorney general to investigate the President's political rival, are we ready to say that the President can sacrifice the interest of the people of that State or, in the case of Medvedev, the people of our country because all quid pro quos are fine? It is carte blanche? Is that really what we are prepared to say with respect to this President's misconduct or the next?

Because if we are, then the next President of the United States can ask for an investigation of you. They can ask for help in their next election from any foreign power, and the argument will be made: No, Donald Trump was acquitted for doing exactly the same thing; therefore, it must not be impeachable.

Now, bear in mind that efforts to cheat an election are always going to be in proximity to an election. And if you say you can't hold a President accountable in an election year, where they are trying to cheat in that election, then you are giving them carte blanche.

So all quid pros are not the same. Some are legitimate and some are corrupt, and you don't need to be a mind reader to figure out which is which. For one thing, you can ask John Bolton.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. GRASSLEY. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Iowa.

Mr. GRASSLEY. I send a question to the desk.

The CHIEF JUSTICE. Senator GRASSLEY asks counsel for the President:

Does the House's failure to enforce its subpoenas render its ''obstruction of Congress'' theory unprecedented?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, the answer is yes. As far as I am aware, there has never been a prior instance in which there has been an attempt, even in the House, as in the Nixon proceeding—never mind in the Clinton proceeding, which actually left the House and came to the Senate—to suggest that there can be obstruction of Congress when there hasn't been anything beyond simply issuing a subpoena, getting resistance, and then throwing up your hands and giving up and saying: Oh, well, that is obstruction.

In the Clinton situation, most of the litigation was with independent counsel, and there were privileges asserted in litigation and litigation again and again, but the point is that the issues about the privileges were all litigated, and they were resolved before things came to this body.

Similarly, in the Nixon impeachment proceeding within the House, a lot of investigation had been done by the special counsel, and there was litigation over assertions of privileges there in order to get the tapes, and some tapes and transcripts had already been turned over, but, again, there was litigation about the assertion of the privilege in response to the grand jury subpoena that then fed into the House's proceedings.

So it would be completely unprecedented for the House to attempt to actually bring a charge of obstruction into the Senate where all they can present is: Well, we issued a subpoena, and there were legal grounds asserted for the invalidity of the subpoena, and there were different grounds, as I have gone through. I will not repeat them all in detail here.

Some of those subpoenas were just invalid when issued because there was no vote. Some of the subpoenas for witnesses were invalid because senior advisers to the President had absolute immunity from compulsion. Some were that they were forcing executive branch officials to testify without the benefit of agency counsel and executive branch counsel with them. So there were various reasons asserted for the

invalidity and the defects in various subpoenas and then no attempt to enforce them, no attempt to litigate out what the validity or invalidity might be but to just bring it here as an obstruction charge is unprecedented.

I will note that House managers have said—and I am sure that they will say again today—that, well, but if we had gone to court, the Trump administration would have said that the courts don't have jurisdiction over those claims. Now, that is true. In some cases—there is one being litigated right now related to the former Counsel for the President, Don McGahn. The Trump administration's position, just like the position of the Obama administration, is that an effort by the House to enforce a subpoena in an article III court is a nonjusticiable controversy. That is our position, and we would argue that in court.

But that is part of what would have to be litigated. That doesn't change the fact that the House managers can't have it both ways. I want to make this clear. The House managers want to say that they have an avenue for going to court; they are using that avenue for going to court; and they actually told the court in McGahn that once they reached an impasse with the executive branch, the courts were the only way to resolve the impasse.

As I explained the other day, there are mechanisms for dealing with these disputes between the executive and Congress. First is an accommodations process. They didn't do that. We offered to do that in the White House Counsel's October 8 letter. They didn't do accommodations. If they think they can sue, they have to take that step because the Constitution, the courts have made clear, requires incrementalism in disputes between the executive and the legislative branch.

So if they think that the courts can resolve that dispute, that is the next step. They should do that and have that litigated, and then things can proceed on to a higher level of confrontation. But to jump straight to impeachment, to the ultimate constitutional confrontation, doesn't make sense. It is not the system that the Constitution requires, and it is unprecedented in this case. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Michigan.

Ms. STABENOW. Thank you, Mr. Chief Justice. I send a question to the desk.

The CHIEF JUSTICE. Senator STABENOW asks the House managers:

Would the House Managers care to correct the record on any falsehoods or mischaracterizations in the White House's opening arguments?

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, thank you for that question. We believe that the President's team has claimed basically there were six facts that have not been met and will not change and all six of those so-called facts are incorrect.

Let's be clear. On July 25—that is not the whole evidence before us, even though it includes devastating evidence, the President's scheme. President Trump's intent was made clear on the July 25 call, but we had evidence of information before the meeting with Mr. Bolton, the text message to Mr. Zelensky's people telling him he had to do the investigations to get what he wanted. All of this evidence makes us understand that phone call even more clearly.

Now, the President's team claimed that Mr. Zelensky and other Ukrainians said they never felt pressured over investigations. Now, of course, they didn't say that publicly. They were afraid of the Russians finding out. But Zelensky said privately that he didn't want to be involved in U.S. domestic politics. He resisted announcing the investigations. He only relented and scheduled the CNN meeting after it became clear that he was not going to receive the support that he needed and that Congress had provided in our appropriations. That is the definition of ''pressure.''

Now, Ukraine—the President's lawyers say—didn't know that Trump was withholding the security assistance until it was public. Many witnesses have contested that, including the open statement by Olena Zerkal, who was then the Deputy Foreign Minister of Ukraine, that they knew about the President's hold on security matters, and in the end, everyone knew, it was public, and afterward, Ukraine did relent and scheduled that testimony.

Fourth, they said no witnesses, said security was conditioned on the investigations. Not so. There was Mulvaney, and we had other witnesses talking about the shakedown for the security assistance. But the important thing is, you can get a witness who talked to the President firsthand about what the President thought he was doing.

Ultimately, of course, the funds—or at least some of them—were released, but the White House meeting that the President promised three different times still has not occurred, and we still don't have the investigation of the Bidens.

Getting caught doesn't mitigate the wrongdoing. The President is unrepentant, and we fear he will do it again.

The independent Government Accountability Office concluded that the President violated Federal law when he withheld that aid. That misconduct is still going on. All the aid has not yet been released.

Finally, I would just like to say that there has been some confusion, I think. I am sure it is not intentional. But the President surely does not need the permission of his staff about foreign policy. That information is offered to you as evidence of what he thought he was doing. He did not appear to be pursuing a policy agenda. From all of the evidence, he appeared to be pursuing a corruption—a corruption of our election that is upcoming; a high crime and misdemeanor that requires conviction and removal.

I yield back.

The CHIEF JUSTICE. Thank you, counsel.

Mr. COTTON. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Arkansas.

Mr. COTTON. I send a question to the desk for the President's counsel on behalf of myself and Senators BOOZMAN, MCSALLY, BLACKBURN, KENNEDY, and TOOMEY.

The CHIEF JUSTICE. The Senators ask the President's counsel:

Did the House bother to seek testimony or litigate executive privilege issues during the month during which it held up the impeachment articles before sending them to the Senate?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, no, the House did not seek to litigate any of the privilege issues during that time. In fact, they filed no lawsuits arising from this impeachment inquiry to seek to contest the bases that the Trump administration gave for resisting the subpoenas, the bases for why those subpoenas were invalid.

When litigation was filed by one of the subpoena recipients—that was Dr. Charles Kupperman, the Deputy National Security Advisor—he went to the court and sought a declaratory judgment, saying: The President has told me I shouldn't go. I have a subpoena from the House saying I should go. Please, courts, tell me what my obligations are.

I believe that was filed around October 25. It was toward the end of October.

Very shortly, within a few days, the court had set an expedited briefing schedule and scheduled the hearing for December 10. They were supposed to hear both preliminary motions to dismiss and also the merits issue.

So they were going to get a decision after a hearing on December 10 that would go to the merits of the issue, but the House managers withdrew the subpoena. The House of Representatives decided they wanted to moot out the case so they wouldn't get a decision.

So, no, the House has not pursued litigation to get any of these issues resolved. It has affirmatively avoided getting into any litigation. That seems to be at least in part based on—if you look at the House Judiciary Committee report—their assertion that under the sole power of impeachment assigned to the House, the House believes that the Constitution assigns—I believe the exact words are that it gives the House the last word, something to that effect.

I mentioned this the other day. This is the new constitutional theory that because they have the sole power of impeachment, in their view, it is actually the paramount power of impeachment and that all other constitutionally based privileges or rights or immunities or roles, even, of the other branches—both the judiciary and the executive—fall away, and there is nothing that can stand in the way of the

House's power of impeachment. If they issue a subpoena, the executive has to respond, and it can't raise any constitutionally based separation of powers concerns. If you do, that is obstruction of the courts. The courts have no role. The House has the sole power of impeachment.

That is a very dangerous construct for our Constitution. It suggests that once they flip the switch on to impeachment, there is no check on their power and what they want to do. That is not the way the Constitution is structured. When there are interbranch conflicts, the Constitution requires that there be an accommodation process, that there be attempts to address the interests of both branches.

The House has taken the position—and in other litigation—the McGahn litigation—they are telling the courts that the courts are the only way to resolve these issues. They brought that case in August. They already have a decision from the district court. They have an appeal in the DC Circuit. It was argued on January 3. A decision could come any day. That is pretty fast for litigation. But in this impeachment, they have decided that they don't want to do litigation. Again, it is because they had a timetable. One of the House managers admitted it on this floor. They had to get the President impeached before the election. They had no time for the courts, for anyone telling them what the rules were. They had to get it done by Christmas, and that is what they did. Then they waited around a month before bringing it here.

I think that shows you what is really behind the claims of, oh, it is urgent, then it is not urgent. It was urgent when it was our timetable to get it done by Christmas. It is not so urgent when we can wait for a month because we want to tell the Senate how to run things. It is all a political charade.

That is part of the reason—a major reason—that the Senate should reject these Articles of Impeachment.

The CHIEF JUSTICE. Thank you, counsel.

Mr. UDALL. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from New Mexico.

Mr. UDALL. Thank you for the recognition, Mr. Chief Justice. I send a question to the desk.

The CHIEF JUSTICE. Senator UDALL's question is for the House managers:

Please address the President's counsel's argument that House managers seek to overturn the results of the 2016 election and that the decision to remove the President should be left to the voters in November.

Mr. Manager SCHIFF. Thank you for the question.

First, I just want to respond to something counsel just said—that 9 months is pretty fast for litigation in the courts. Sadly, I agree with that. Nine months is pretty fast in the McGahn case, and we still don't have a decision yet. What is more, that is the very case in which they are arguing, as I quoted earlier, that Congress has no right to come to the courts to force a witness to testify. So here we are 9 months later in that litigation that they said we are compelled under the Constitution to bring, and they are saying in court: You can't bring this. And it is 9 months, and we still don't have a decision. I think that tells you just where they are coming from. It all goes back to the President's directive to fight all subpoenas, and they are.

Nixon was going to be impeached for far less obstruction than anything that Donald Trump did.

The argument: Well, if you impeach a President, you are overturning the results of the last election and you are tearing up the ballots in the next election. If that were the case, there would be no impeachment clause in the Constitution because, by definition, if you are impeaching a President, that President is in office and has won an election.

Clearly, that is not what the Founders had in mind. What they had in mind is, if the President commits high crimes and misdemeanors, you must remove him from office. It is not voiding the last election; it is protecting the next election. Indeed, the impeachment power was put in the Constitution not as a punishment—that is what the criminal laws are for—but to protect the country.

Now, if you say you can't impeach a President before the next election, what you are really saying is you can only impeach a President in their second term. If that were going to be the constitutional requirement, the Founders would have put in the Constitution: A President may commit whatever high crimes and misdemeanors he wants as long as it is in the first term. That is clearly not what any rational Framer would have written, and, indeed, they didn't, and they didn't for a reason. The Founders were concerned that, in fact, the object of a President's corrupt scheme might be to cheat in the very form of accountability that they have prescribed: the election.

So counsel has continued to mischaracterize what the managers have said. We are not saying we had to hurry to impeach the President before the election. We had to hurry because the President was trying to cheat in that election.

The position of the President's counsel is, well, yes, it is true that if a President is going to try to cheat an election, by definition, that is prior to their reelection; by definition, that is going to be proximate to an election; but, you know, let the voters decide, even though the object is to corrupt that vote of the people. That cannot be what the Founders had in mind.

One of the things I said at the very opening of this proceeding is, yes, we are to look to history; yes, we are to try to define the intent of the Framers; but we are not to leave our common sense at the door.

The issue isn't whether it is his first term or his second. It isn't whether the election is a year away or 3 years away. The issue is, did he commit a high crime and misdemeanor? Is it a high crime and misdemeanor for a President of the United States to withhold hundreds of millions of dollars in aid to an ally at war to get help, to elicit foreign interference in our election? If you believe that it is, it doesn't matter what term it is, it doesn't matter how far away the election is because that President represents a threat to the integrity of our elections and, more than that, a threat to our national security.

As we have shown, by withholding that aid—and I know the argument is, no harm, no foul—we withheld aid from an ally at war. We sent a message to the Russians, when they learned of this hold, that we did not have Ukraine's back. We sent a message to the Russians, as Zelensky was going into negotiations with Putin to try to end that war, that Zelensky was operating from a position of weakness because there was a division between the President of the United States and Ukraine. That is immediate damage. That is damage done every day. That damage continues to this day.

The damage the President does in pushing out the Russian conspiracy theories were identified during the House proceedings—and you have heard it in the Senate—as Russian intelligence propaganda. The danger the President poses by taking Vladimir Putin's side over his own intelligence agencies—that is a danger today. That is a danger that continues every day he pushes out this Russian propaganda.

If the Framers meant impeachment only to apply in the second term, they would have said so. But that would have made the Constitution a suicide pact. That is not what it says, and that is not how you should interpret it.

The CHIEF JUSTICE. Thank you, counsel.

Mr. PORTMAN. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Ohio.

Mr. PORTMAN. I send a question to the desk.

The CHIEF JUSTICE. Senator PORTMAN's question is directed to counsel for the President:

Given that impeachment proceedings are privileged in the Senate and largely prevent other work from taking place while they are ongoing, please address the implications of allowing the House to present an incomplete case to the Senate and request the Senate to seek testimony from additional witnesses.

Mr. Counsel PHILBIN. Thank you, Mr. Chief Justice, Senators. I think this is one of the most important issues that this body faces, given these calls to have witnesses, because the House managers tried to present it as if, oh, it is just a simple question; how can you have a trial without witnesses? But in real litigation, no one goes to trial without doing discovery. No one goes to trial without having heard

from the witnesses first. You don't show up at trial and then start trying to call witnesses for the first time.

The implications here in our constitutional structure, trying to run things in such an upside-down way would be very grave for this body as an institution because, as the Senator's question points out, it largely prevents this Chamber from getting other business done as long as there is a trial pending.

The idea that the House can do an incomplete job in trying to find out what witnesses there are, having them come testify, trying to find out the facts—just rush something through and bring it here as an impeachment and then start trying to call all the witnesses—means that this body will end up taking over that investigatory task, and all the regular business of this body will be slowed down, hindered, prevented while that goes on.

And it is not a question of just one witness. A lot of people talk right now about John Bolton, but the President would have the opportunity to call his witnesses, just as a matter of fundamental fairness. There would be a long list of witnesses if the body were to go in that direction. It would mean this would drag on for months and prevent this Chamber from getting its business done.

There is a proper way to do things and an upside-down way of doing things. To have had the House not go through a process that is thorough and complete and to just rush things through in a partisan and political manner and then dump it onto this Chamber to clean everything up is a very dangerous precedent to be set. As I said the other day, whatever is accepted in this case becomes the new normal. If this Chamber puts its imprimatur on this process, then that is the seal of approval for all time in the future.

If it becomes that easy for the House of Representatives to impeach a President of the United States—don't attempt to subpoena the witnesses, never mind litigation because it takes too long, but then leave it all to this Chamber—and, as I said the other day: Remember, what do we think will happen if some of these witnesses are subpoenaed now that they never bothered to litigate about? Then there will be the litigation now, most likely, and then that will take time while this Chamber is still stuck sitting as a Court of Impeachment.

That is not the way to do things, and it would forever change the relationship between the House of Representatives and the Senate in terms of the way impeachments operate.

So I think it is vitally important for this Chamber to consider what it really means to start having this Chamber do all that investigatory work, how this Chamber would be paralyzed by that. And is that really the precedent? Is that the way this Chamber wants everything to operate in the future? Once you make it that much easier—and we have said this on a couple of different points, both in terms of the standards for impeachable offenses but also in terms of the process that is used in the House. If you make it really way too easy to impeach a President, then this Chamber is going to be dealing with that all the time.

As Minority Leader SCHUMER had pointed out at the time of the Clinton impeachment—he was prophetic, as White House counsel pointed out the other day—once you start down the path of partisan impeachments, they will be coming again and again and again. And if you make it easier, they will come even more frequently, and this Chamber is going to be spending a lot of time dealing with impeachment trials and cleaning up any incomplete, half-baked procedures, rushed partisan impeachments from the House if that is the sort of system that is given the imprimatur here.

That is a very important reason for not accepting that procedure and not trying to open things up now when things haven't been done properly in the House of Representatives.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Delaware.

Mr. CARPER. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Senator CARPER's question is for the House managers:

> Some have claimed that subpoenaing witnesses or documents would unnecessarily prolong this trial. Isn't it true that depositions of the three witnesses in the Clinton trial were completed in only one day each? And, isn't it true that the Chief Justice, as presiding officer in this trial, has the authority to resolve any claims of privilege or other witness issues, without any delay?

Mr. Manager JEFFRIES. Mr. Chief Justice, the answer is yes. What is clear, based on the record that was compiled by the House of Representatives, where up to five depositions per week were completed, is that this can be done in an expeditious fashion.

It is important to note that the record that exists before you right now contains strong and uncontroverted evidence that President Trump pressured a foreign government to target an American citizen for political and personal gain, as part of a scheme to cheat in the 2020 election and solicit foreign interference. That is evidence from witnesses who came forward from the Trump administration, including individuals like Ambassador Bill Taylor, a West Point graduate and a Vietnam war hero; including individuals like Ambassador Sondland, who gave $1 million to President Trump's inauguration; including respected national security professionals like LTC Alexander Vindman, as well as Dr. Fiona Hill—17 different witnesses, Trump administration employees, troubled by the corrupt conduct that took place, as alleged and proven by the House of Representatives.

But to the extent that there are ambiguities in your mind, this is a trial. A trial involves witnesses. A trial involves documents. A trial involves evidence. That is not a new phenomenon for this distinguished body. The Senate, in its history, has had 15 different impeachment trials. In every single trial there were witnesses—every single trial. Why should this President be treated differently, held to a lower standard, at this moment of Presidential accountability?

In fact, in many of those trials, there were witnesses who testified in the Senate who had not testified in the House. That was the case most recently in the Bill Clinton trial. It certainly was the case in the trial of President Johnson. Thirty-seven out of the 40 witnesses who testified in the Senate were new—37 out of 40.

Why can't we do it in this instance, when you have such highly relevant witnesses like John Bolton, who had a direct conversation with President Trump, indicating that President Trump was withholding the aid because he wanted the phony investigations?

Counsel has said the greatest invention in the history of jurisprudence for ascertaining the truth has been the vehicle of cross-examination. Let's call John Bolton. Let's call Mick Mulvaney. Let's call other witnesses, subject them to cross-examination, and present the truth to the American people.

The CHIEF JUSTICE. Thank you.

The Senator from Texas.

Mr. CORNYN. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Senators CORNYN and GARDNER ask counsel for the President:

> What are the consequences to the Presidency, the President's constitutional role as the head of the executive branch, and the advice the President can expect from his senior advisers, if the Senate seeks to resolve claims of executive privilege for subpoenas in this impeachment trial without any determination by an article III court?

Mr. Counsel PHILBIN. Mr. Chief Justice, I thank the Senators for the question.

The Supreme Court has recognized that the confidentiality of communications with the President is essential—keeping those communications confidential is essential for the proper functioning of the government.

In Nixon v. United States, the court explained that this privilege is grounded in the separation of powers and essential for the functioning of the executive for this reason: In order to receive candid advice, the President has to be able to be sure that those who are speaking with him have the confidence that what they say is not going to be revealed, that their advice can remain confidential. If it is not confidential, they would temper what they are saying; they wouldn't be candid with the President; and the President, then, would not be able to get the best advice.

It is the same concern that underpins the deliberative process aspect of executive privilege. Even if it is not a communication directly with the President, if it is the deliberative process within the executive branch, people have to be able, before coming up with a decision, to discuss alternatives, to probe what other ways might work to address the problem, and to discuss them candidly and openly, not with the feeling that the first thing they say is going to be on the front page of the Washington Post the next day, because if you don't have the confidence that what you are saying is going to be kept confidential, you will not be candid, you will not give your best advice, and that damages decision-making. It is bad for the government, and it is bad for the people of the United States because it means the government and the executive branch can't function efficiently.

So there is a critical need for the executive to be able to have these privileges and to protect them, and that is why the Supreme Court recognized that in Nixon v. United States and pointed out that there has to be some very high showing of need from another branch of government if there is going to be any breach of that privilege.

That is why there is an accommodations process. The courts have said that, when the Congress and the legislature seek information from the executive and the executive has confidentiality interests, both branches are under an obligation to try to come to some accommodation to address the interests of both branches. But it is not a situation of simply that the Congress is supreme and can demand information from the executive and the executive must present everything. The courts have made that clear, because that would be damaging to the functioning of government.

So here, in this case, there are vital interests at stake. And one of the potential witnesses that the House managers have raised again and again is John Bolton. John Bolton was a National Security Advisor to the President. He has all of the Nation's secrets from the time that he was the National Security Advisor, and that is precisely the area, the field, in which the Supreme Court suggested, in Nixon v. United States, there might be something approaching an absolute privilege of confidentiality in communications with the President: the fields of national security and foreign affairs. That is the crown jewel of executive privilege.

So to suggest that the National Security Advisor—well, we will just subpoena him, and he will come in; that will be easy; there will not be any problem—that is not the way it would work because there is a vital constitutional privilege at stake there, and it is important for the institution of the Office of the Presidency, for every President, to protect that privilege, because once precedents start to be set—if one President says: Well, I will not insist on the privilege then; I will let people interview this person; I will not insist on the immunity—that sets precedent. Then the next time, when it is important to preserve the privilege, the precedent is raised, and the privilege has been weakened—and is forever weakened—and that damages the functioning of government.

So this is a very serious issue to consider. It is important. The Supreme Court has made it clear for the proper functioning of the executive branch, for the proper functioning of our government. And there would be grave issues raised attempting to have a National Security Advisor to the President come under subpoena to testify. That would all have to be dealt with, and that would take some time before things would continue.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Hawaii.

Mr. SCHATZ. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question from Senator SCHATZ is directed to the House managers, and the question also is from Senator FEINSTEIN:

If the President were acting in the interest of national security, as he alleges, would there be documentary evidence or testimony to substantiate his claim? If yes, has any evidence like that been presented by the President's counsel?

Mr. Manager CROW. Thank you, Mr. Chief Justice. Thank you, Senators, for the question.

The answer is yes. There are well-established processes, mechanisms, and agencies in place to pursue valid and legitimate national security interests of the United States—like the National Security Council; like the National Security Advisor, as in Ambassador John Bolton; and many other folks within the State Department and the Department of Defense. And as we have well established over the last week, none of those folks, none of those agencies, would have been involved in having that deliberation, reviewing that evidence, having that discussion, or incorporated into any type of interagency review process during the vast majority of the time that we are talking about here.

From the time of the President's call on July 25 to the time the hold was lifted, those individuals, those agencies were in the dark. They didn't know what was happening, and, more so, not only were they in the dark, but the President violated the law by violating the Impoundment Control Act to execute his scheme. None of that suggests a valid, legitimate policy objective.

More so, the President himself and his counsel are bringing at issue the question of documents and witnesses. If over and over again, as we have heard in the last few days, the President was simply pursuing a valid, legitimate policy objective, if this was a specific debate about policy, a debate about corruption, a debate about burden-sharing, then, let's have the documents that would show that. Let's hear from the witnesses that would show that. The documents and the witnesses that we have forwarded and we have talked about show the exact opposite.

The American people in this Chamber deserve to have a fair trial. The President deserves to have a fair trial. In fact, if he is arguing that there is evidence, that there was a policy debate, then, I think everybody would love to see those documents, would love to see the witnesses and hear from them directly about what exactly was being debated.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from South Carolina.

Mr. GRAHAM. I send a question to the desk from myself and Senator CRUZ.

The CHIEF JUSTICE. Senator GRAHAM and Senator CRUZ pose this question for the House managers:

In Mr. SCHIFF's hypothetical, if President Obama had evidence that MITT ROMNEY's son was being paid $1 million per year by a corrupt Russian company—and MITT ROMNEY had acted to benefit that company—would Obama have authority to ask that that potential corruption be investigated?

Mr. Manager SCHIFF. First of all, the hypothetical is a bit off because it presumes in that hypothetical that President Obama was acting corruptly or there was evidence he was acting corruptly with respect to his son. But, nonetheless, let's take your hypothetical on its terms.

Would it have been impeachable if Barack Obama had tried to get Medvedev to do an investigation of MITT ROMNEY, whether it was justified or unjustified? The reality is, for a President to withhold military aid from an ally—or, in the hypothetical, to withhold it to benefit an adversary—to target their political opponent is wrong and corrupt—period, end of story.

If you allow a President to rationalize that conduct, rationalize jeopardizing the Nation's security to benefit himself because he believes that his opponent should be investigated by a foreign power, that is impeachable.

If you have a legitimate reason to think that any U.S. person has committed an offense, there are legitimate ways to have an investigation conducted. There are legitimate ways to have the Justice Department conduct an investigation.

I would suggest to you that for a President to turn to his Justice Department and say, ''I want you to investigate my political rival,'' taints whatever investigation they do. Presidents should not be in the business of asking even their own Justice Department to investigate their rivals.

The Justice Department ought to have some independence from the political desires of the President, and one of the deeply troubling circumstances

of the current Presidency is you do have a President of the United States speaking quite openly, urging his Justice Department to investigate his perceived enemies.

That should not take place either, but under no circumstances do you go outside of your own legitimate law enforcement process to ask a foreign power to investigate your rival, whether you think there is cause or you don't think there is cause, and you certainly don't invite that foreign power to try to influence an election to your benefit.

It is remarkable to me that we even have to have this conversation. Our own FBI Director has made it abundantly clear—and it shouldn't require an FBI Director to say this—that if we were approached with an offer of foreign help, we should turn it down. We should, of course, certainly not solicit a foreign country to intervene in our election. And whether we think there is grounds or we don't, the idea that we would hold our own country's security hostage by withholding aid to a nation at war to either damage our ally or help our adversary because they will conduct an investigation into our opponent, I can't imagine any circumstance where that is justified, and I can't imagine any circumstance where we would want to say the President of the United States can target his rival, can solicit, elicit foreign help in an election, can help him cheat and that is OK, because that will dramatically lower the bar for what we have a right to expect in the President of the United States; and that is, they are acting in our interests.

I would say it is wrong for the President of the United States to be asking for political prosecutions by his own Justice Department. I would say it is wrong for the President of the United States to ask a foreign power to engage in an investigation of his political rival, but, particularly, where, as we have shown here, there is no merit to that investigation is even more egregious. You know there is no merit to it because he didn't even want the investigation.

The more accurate parallel, Senator, would be if Barack Obama said: I don't even need you, Russia, to do the investigation; I just want you to announce it—because that portrays the fact there was no legitimate basis, because the President didn't even need the investigation done. He just wanted it announced. There is no legitimate explanation for that except he wanted their help in cheating the next election.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Michigan.

Mr. PETERS. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question is from Senator PETERS and is for the House managers.

Does the phrase ''or other high Crimes and Misdemeanors'' in Article II, Section 4 of the Constitution require a violation of the U.S. criminal code or is a breach of public trust sufficient? Please explain.

Ms. Manager LOFGREN. The Framers were very clear that abuse of power is an impeachable offense. In explaining why the Constitution must allow impeachment, Edmund Randolph warned that ''the Executive will have great opportunities of abusing his power.''

Alexander Hamilton described ''high crimes and misdemeanors'' as ''offenses which proceed from the . . . abuse or violation of some public trust.''

The Framers also described what it meant. It was impeachable for a President to abuse his pardon power to shelter people he was connected with in a suspicious manner. Future Supreme Court Justice James Iredell said the President would be liable to impeachment if he acted from some corrupt motive or other or if he was willfully abusing his trust.

As was later stated in a treatise summarizing centuries of common law, abuse of power occurs if a public officer, entrusted with definite powers to be exercised for the benefit of the community, wickedly abuses or fraudulently exceeds them.

So when the Framers said this—that abuse of power was impeachable—it was not just an empty, meaningless statement. Remember, the Founders had been participating with overthrowing the British Government, a King who was not accountable.

They incorporated the impeachment power into the Constitution late, actually, in the drafting of the Constitution. They knew they were giving the President many powers, and they specified, if he abused them, that those powers could be taken away.

Now, the prior articles that the Congress has had on impeachment did not include specific crimes. President Nixon was charged with abusing his power, targeting political opponents, engaging in a coverup.

There was conduct specified. Some of it was clearly criminal. Some of it was not. But it was all impeachable because it was corrupt, and it was abusing his power.

In the House Judiciary Committee, we had witnesses called by both Republicans and Democrats. The Republican-invited constitutional law expert Jonathan Turley testified unequivocally that it is possible to establish a case for impeachment based on a noncriminal allegation of abuse of power.

Every Presidential impeachment, including this one, has included conduct that violated the law, but each Presidential impeachment has included the charges directly under the Constitution.

It is important to note that a specific criminal law violation was not in the minds of the Founders, and it wouldn't make any sense today. You could have a criminal law violation, you could deface a post office box. That would be a violation of Federal law. We would laugh at the idea that that would be a basis for impeachment. That is not abuse of Presidential powers. It might be a crime. And yet, you could have activities that are so dangerous to our Constitution, that are not a crime, that would be charged as an impeachable offense because they are an abuse of power. That is what the Framers worried about. That is why they put the impeachment clause in the Constitution, and, frankly, they opined that, because of the impeachment clause, no Executive would dare exceed their powers. Regrettably, that prediction did not prove true, which is why we are here today with President Trump having abused his broad powers to the detriment of our national interest for a corrupt purpose, his own personal interests.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Senator.

Mr. ROUNDS. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senator MURKOWSKI.

The CHIEF JUSTICE. Thank you, Senator.

The CHIEF JUSTICE. Senators ROUNDS and MURKOWSKI ask counsel for the President:

Describe in further detail your contention that all subpoenas issued prior to the passage of H. Res. 660 are an exercise of invalid subpoena authority by the House committees.

Mr. Counsel PHILBIN. Mr. Chief Justice.

Thank you, Senators, for that question.

As I explained the other day, this contention is based on a principle that has been laid out in several Supreme Court cases explaining that the Constitution assigns powers to each House of the legislative branch: to the House of Representatives or to the Senate. And in particular, the language of the Constitution is clear in article I that the sole power of impeachment is assigned to the House—as to the House of Representatives as a body. It is not assigned to any committee, to a subcommittee, or to any particular Member of the House.

And in cases such as Rumely v. The United States and the United States v. Watkins, the Court has been called—there are disputes about subpoenas. They are not specifically in the impeachment context, but they establish the general rule, a principle, that whenever a committee of either body of Congress issues a subpoena to someone and that person resists the subpoena, the courts will examine what was the authority of that committee or subcommittee to issue that subpoena.

It has to be traced back to some authorizing rule or resolution from the House of Representatives itself, for example, in a House subcommittee. And the courts will examine—the Supreme Court has made clear that that is the charter of the committee's authority. It gets its authority solely from an action by the House itself. That requires

a vote of the House, either to establish the committee by resolution or to establish by rule the standing authority of that committee. And if the committee cannot trace its authority to a rule or a resolution from the House, then its subpoena is invalid.

The Supreme Court made clear in those cases those subpoenas are null and void because they are ultra vires; they are beyond the power of the committee to issue. They can't be enforced. Our point here is very simple. There is no standing rule in the House that provides the committees that were issuing subpoenas here, under the leadership of Manager SCHIFF, the authority to use the impeachment power to issue subpoenas. Rule 10 of the House defines the legislative jurisdiction of committees. It doesn't mention the word ''impeachment'' even once. So no committee under rule 10 was given the authority to issue subpoenas for impeachment purposes.

This has always been the case in every Presidential impeachment in the history of the Nation. There has always been a resolution from the House, first, to authorize a committee to use the power of impeachment before it intended to issue compulsory process. So in this case, there was no resolution from the House. The authority, the sole power of impeachment, remained with the House of Representatives itself. And Speaker PELOSI, by herself, did not have authority merely by talking to a group of reporters on September 24, to give the powers of the House to any particular committee to start issuing subpoenas. So the subpoenas that were issued were invalid when they were issued.

And then 5 weeks later, on October 31, when the House finally adopted H. Res. 660, that authorized from that point—purported to authorize from that point the issuance of subpoenas. Nothing in that resolution addressed the subpoenas that had already been issued. It didn't even attempt or purport to say the ones that have already been issued, we are going to try to retroactively give authority to that. It is a separate question about whether that could have been done legally. They didn't even attempt to do it.

This is all explained in the opinion from the Office of Legal Counsel, which is in our trial memorandum attached as appendix C. It is a very detailed and thorough opinion; it is 37 pages of legal reasoning, but it explains all of this, the basic principle that applies, generally, and the history that it has always been done this way. There has always, in every Presidential impeachment, been an authorizing resolution from the House. And the fact that there was none here—so there was no authority for those subpoenas—that means that 23 subpoenas that were issued were invalid.

And this was explained, as I pointed out the other day, in letters from the administration to the committees—a letter from the White House, from OMB, I think the State Department—and in very specific terms, they set out this rationale. That is the basis on which those subpoenas were invalid, and they were properly resisted by the administration.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Pennsylvania.

Mr. CASEY. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you.

Senator CASEY's question is directed to the House managers:

In Federalist 65, Alexander Hamilton writes that the subjects of impeachment are ''those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust.'' Could you speak broadly to the duties of being a public servant and how you believe the President's actions have violated this trust?

Mr. Manager NADLER. Mr. Chief Justice, Members of the Senate.

President Trump used the powers of his office to solicit a foreign nation to interfere in our elections for his own benefit, and then he actively obstructed Congress in his attempts to investigate his abuses of power. These actions are clearly impeachable. The key purpose of the impeachment clause is to control abuses of power by public officials; that is to say, conduct that violates the public trust.

Since the founding of the Republic, all impeachments have been based on accusations of conduct that violates the public trust. When the Framers wrote the phrase ''high Crimes and Misdemeanors,'' they intended to capture the conduct of public officials, like President Trump, who showed no respect for their oath of office. President Trump ignored the law and the Constitution in order to gain a political favor. The Constitution and his oath of office prohibited him from using his official favor to corruptly benefit himself rather than the American people. That is exactly what the President did, illegally withholding military aid and a White House meeting until the President of Ukraine committed to announcing an investigation of President Trump's opponent.

In the words of one constitutional scholar: ''If what we're talking about is not impeachable, then nothing is impeachable.''

This is precisely the misconduct that the Framers created the Constitution, including impeachment, to protect against.

I want to add something in reference to some of the comments that were made by some of the President's counsel a few minutes ago. They talk about the subpoena power, about the failure of the House to act properly in the subpoena power because they said the House did not delegate by rule—have a resolution authorizing the committees to offer subpoena power. They apparently haven't read the fact that the House has generally delegated all subpoena power to the committees. It wasn't true at the time of the Watkins case; it wasn't true 15 years ago; but it is true now.

Second, the House power is the sole power of impeachment and the manner of its exercise may not be challenged from outside. Whether the President should be convicted upon our accusation is a question for the Senate, but how we reached our accusation is a matter solely for the House.

Thirdly, they talked about executive privilege, and they pointed to the Nixon case that established executive privilege; that the President has a right to private, candid advice and, therefore, executive privilege is established. The same case says that executive privilege cannot be used to hide wrongdoing and, in fact, President Nixon was ordered in that case to turn over all his material.

Thirdly, there is a doctrine of waiver. You cannot use executive privilege or any other privilege if you waive it. The moment President Trump said that John Bolton was not telling the truth when he said that the President told him of the improper quid pro quo, he waived any executive privilege that might have existed. He cannot characterize a conversation and put it into the public domain and then claim executive privilege against it. The President, by the way, never claimed executive privilege ever. He has claimed, instead, absolute immunity—a ridiculous doctrine that the President has absolute immunity from any questioning by the Congress or by anybody else. It is a claim rejected by every court that has ever considered it.

Finally, the difference from this President and any other President claiming privilege of any sort is that this President told us in advance: I will defy all subpoenas, whatever their nature. I will make sure that the Congress gets no information. In other words: I am absolute. The Congress cannot question what I do because I will defy all subpoenas. I will make sure they get no information, no matter what their rights, no matter what their situation.

That is the subject of our article II of the impeachment because that is a claim of absolute monarchical power.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. MCCONNELL. Mr. Chief Justice.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. MCCONNELL. I want to suggest that after two more questions on each side—I have been corrected, as I frequently am—one more question on each side, we take a 15-minute break.

The CHIEF JUSTICE. Thank you.

The Senator from Kansas.

Mr. ROBERTS. I send a question to the House counsel for a question.

The CHIEF JUSTICE. Thank you.

Senator ROBERTS asks:

Would you please respond to the arguments or assertions the House managers made in response to the previous questions?

This is directed to the counsel for the President.

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate. I want to respond to a couple.

First, with regard to the question or the issues that have been raised as it relates to witnesses, it is important to note that in the Clinton impeachment proceeding, the witnesses who actually gave deposition testimony were witnesses who had either been interviewed by deposition in the House proceedings, grand jury proceedings, and then, more specifically, was Sid Blumenthal, Vernon Jordan, and Monica Lewinsky. New witnesses were not being called. That is because the House, in their process, moved forward with a full investigation. That did not happen here.

There was another statement that was raised by Mr. Chairman SCHIFF, Manager SCHIFF, regarding the Chief Justice could make the determination on executive privilege. And again, with no disrespect to the Chief Justice, the idea that the Presiding Officer of this proceeding could determine a waiver or an applicability of executive privilege would be quite a step. There is no historical precedent. There is no historic precedent that would justify it.

But there is something else. If we get to the point of witnesses, then, for instance, if one of the witnesses to be called by the President's lawyers was ADAM SCHIFF in the role, basically, of Ken Starr—Ken Starr presented the report and made the presentation before the House of Representatives. He had about 12 hours of questioning, I believe, is what Judge Starr had. If Representative SCHIFF was called as a witness, would, in fact, then issues of speech and debate clause privilege be litigated and decided by the Presiding Officer or would it go to court or maybe they would waive it, but those would be the kind of issues that would be very, very significant.

Senator GRAHAM presented a hypothetical, which Manager SCHIFF said, well, that is not really the hypothetical, but hypotheticals are actually that; they are hypotheticals. To use Manager SCHIFF's words, he talked about how it would be wrong if FBI or the Department of Justice was starting a political investigation of someone's political opponent.

I am thinking to myself, but isn't that exactly what happened? The Department of Justice and the FBI engaged in an investigation of the candidate for President of the United States when they started their operation called Crossfire Hurricane.

He said it would be targeting a rival. That is what that did. He said it would be calling for foreign assistance in that. In the particular facts of Crossfire Hurricane, it has been well established now that, in fact, Fusion GPS utilized the services of a former foreign intelligence officer, Christopher Steele, to put together a dossier and that Christopher Steele relied on his network of resources around the globe, including Russia and other places, to put together this dossier, which then James Comey said was unverified and salacious. Yet it was the basis upon which the Department of Justice and the FBI obtained FISA warrants. This was in 2016, against a rival campaign. So we don't have to do hypotheticals. It is precisely the situation.

To take it an additional step, this idea that a witness will be called—if this body decides to go to witnesses—would be a violation of fundamental fairness. Of course, if witnesses are called by the House managers through that motion, the President's counsel would have the opportunity to call witnesses as well, which we would.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from California.

Ms. HARRIS. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question from Senator HARRIS is for the House managers:

> President Nixon said, ''When the president does it that means that it is not illegal.'' Before he was elected, President Trump said, ''When you're a star, they let you do it. You can do anything.'' After he was elected, President Trump said that Article II of the Constitution gives him ''the right to do whatever [he] want[s] as president.'' These statements suggest that each of them believed that the president is above the law—a belief reflected in the improper actions that both presidents took to affect their reelection campaigns. If the Senate fails to hold the President accountable for misconduct, how would that undermine the integrity of our system of justice?

Mr. Manager SCHIFF. Mr. Chief Justice, Senators, I think this is exactly the fear. I think, if you look at the pattern in this President's conduct and his words, what you see is a President who identifies the state as being himself. When the President talks about the people who report his wrongdoing—for example, when he describes a whistleblower as a traitor or a spy—the only way you can conceive of someone who reports wrongdoing as committing a crime against the country is if you believe that you are synonymous with the country, that any report of wrongdoing against the President—the person the President—is a treasonous act. It is the kind of mentality that says that under article II, I can do whatever I want, that I am allowed to fight all subpoenas.

Counsel has given a variety of explanations for the fighting of all subpoenas. They might have had a plausible argument if the administration had given hundreds of documents but reserved some and made a claim of privilege or if the administration has said: We will allow these witnesses to testify, but with these witnesses, with these particular questions, we want to assert the privilege.

Of course, that is not what was done here. What we have, instead, is a shifting series of rationales, of explanations, and duplicitous arguments—some made in court and some made here—the argument that the subpoenas aren't valid before the House resolution, and then with respect to subpoenas issued after the House resolution, like to Mulvaney, they are no good either. You have the argument made that, we have absolute immunity, and the court that addresses this says: No, you don't; you are not a King. That argument may have been thought of with favor by various Presidents over history, but it has never been supported by any court in the land, and there is no constitutional support for that either.

There are documents that are being released right now, as we sit here, and it is a mystery to the country, and it is a mystery to some of us. How are private litigants able to get documents through the Freedom of Information Act that the administration has withheld from Congress? If they were operating in any good faith, would that be the case? Of course, the answer is no. What we have instead is, we are going to claim absolute immunity, although the court says that doesn't exist.

They said: You know, the House withdrew the subpoena on Dr. Kupperman. Why would they withdraw the subpoena on Dr. Kupperman when he was only threatening to tie you up endlessly in court?

Now, we suggested to counsel for Dr. Kupperman that, if they had a good-faith concern about testifying—if this were really good faith and it were not just a strategy to delay; if it were not just part of the President's wholesale ''fight all subpoenas''—they didn't need to file separate litigation because there was actually a case already in court involving Don McGahn on that very subject that was ripe for a decision. Indeed, the decision would come out very shortly thereafter. We said: Let's just agree to be bound by what the McGahn court decides.

They didn't want to do that, and it became obvious once the McGahn court decision came out because the McGahn court said: There is no absolute immunity. You must testify.

By the way, if you think people involved in national security—i.e. Dr. Kupperman and John Bolton, if you are listening—are somehow absolutely immune, they are not.

So did Dr. Kupperman say: ''Now I have the comfort I need because the court has weighed in''? The answer is, of course not.

Counsel says: Well, we might have gotten a quick judgment in Kupperman.

Yes—in the lower court.

Do any of you believe for a single minute that they wouldn't appeal to the court of appeals and to the Supreme Court and that if the Supreme Court struck down the absolute immunity argument, they wouldn't be back in the district court, saying: ''OK. He is not asking for absolute immunity anymore, but we are going to claim executive privilege over specific conversations that go to the President's wrongdoing''?

That is the sign of a President who believes that he is above the law, that article II empowers him to do anything he wants.

I will say this: If you accept that argument—if you accept the argument that the President of the United States can tell you to pound sound when you try to investigate his wrongdoing—there will be no force behind any Senate subpoena in the future.

The ''fighting all subpoenas'' started before the impeachment. If you allow a President to obstruct Congress so completely in a way that Nixon could never have contemplated, nor would the Congress of that day have allowed, you will eviscerate your own oversight capability.

Thank you.

The CHIEF JUSTICE. The majority leader is recognized.

RECESS

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the Senate stand in recess until 4 p.m.

There being no objection, the Senate, at 3:38 p.m., recessed until 4:06 p.m. and reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The Senator from Oklahoma.

Mr. INHOFE. Mr. Chief Justice, I have a question for the President's counsel, and it is cosponsored by Senators ROUNDS, WICKER, ERNST, BLACKBURN, TILLIS, CRAMER, COTTON, SULLIVAN, MCSALLY, all members of the Senate Armed Services Committee.

The CHIEF JUSTICE. The Senators ask the following question of the counsel for the President:

Mr. Cipollone, as Members of the Senate Armed Committee, we listened intently when Manager CROW was defending one of Senator SCHUMER's amendments to the organizing resolution last week as he explained how he had firsthand experience being denied military aid when he needed it during his service. As you know, David Hale, Under Secretary of State for Political Affairs, confirmed that the lethal aid provided to Ukraine last year was future aid. Which would you say had the greater military impact: President Trump's temporary pause of 48 days on future aid that will now be delivered to Ukraine, or President Obama's steadfast refusal to provide lethal aid to Ukraine for 3 years—more than 1,000 days—while Ukraine attempted to hold back Russia's invasion and preserve its sovereignty?

Mr. Counsel PHILBIN. Mr. Chief Justice. Thank you, Senators for that question.

I think it was far more serious and far more jeopardy for the Ukrainians the decision of the Obama administration to not use the authority that was given by Congress—that many of you all, many Members of the House of Representatives voted for—giving the U.S. Government the authority to provide lethal aid to the Ukrainians, and the Obama administration decided not to provide that aid.

And multiple witnesses who were called in the House by the House Democrats testified that United States policy toward Ukraine got stronger under the Trump administration, in part, largely, because of that lethal aid.

Ambassador Yovanovitch, Ambassador Volker, others also testified that U.S. policy providing that aid was greater support for Ukraine than was provided in the Obama administration, particularly the provision of Javelin anti-tank missiles, which they explained were lethal and would kill Russian tanks and change the calculus for aggression from the Russians in the Donbas region in the eastern portion of Ukraine where that conflict was still ongoing.

In terms of the pause, the temporary pause on aid here, the testimony in the record—put aside what the House managers have said about their speculation and they know what it is like to be denied aid—the testimony in the record is that this temporary pause was not significant.

And as for Volker, Ambassador Volker testified that the brief pause on releasing the aid was ''not significant.''

And Under Secretary of State for Political Affairs David Hale explained that this is ''future assistance, not to keep the Army going now.''

So, in other words, this isn't money that had to flow every month in order to fund current purchases or something like that. It was money—it is 5-year money. Once it is obligated, it is there for 5 years, and it usually takes quite a bit of time to spend all of it.

So the idea, somehow, that during the couple of months in July, August, and up until September 11—55 or 48 days, depending upon how you count it—that this was somehow denying critical assistance to the Ukrainians on the frontlines right then is simply not true.

And now the House managers have tried to pivot away from that because they know it is not true. They say: No, it was a signal to the Russians. It was a signal of lack of support that the Russians would pick up on. But here again, it is critical, even the Ukrainians didn't know that the aid had been paused, and part of the reason was they never brought it up in any conversations with representatives of the U.S. Government. And as Ambassador Volker testified, representatives of the U.S. Government didn't bring it up to them because they didn't want anyone to know; they didn't want to put out any signal that might be perceived by the Russians or by the Ukrainians as any sign of lack of support. It was kept internal to the U.S. Government.

They pointed to some emails that someone at the Department of Defense or Department of State, Laura Cooper, received from unnamed Embassy staffers suggesting that there was a question about the aid, but her testimony was that she couldn't even remember what the question really was, and she didn't want to speculate.

There is not evidence that any decision makers in the Ukraine Government knew about the pause.

And just the other day, another article came out—I believe it was from, at the time, the Foreign Minister Danylyuk—explaining that when the POLITICO article was published on August 28, there was panic in Kyiv because it was the first time they realized there was any pause on the aid. So that was not something that was providing any signal either to the Ukrainians or the Russians because it wasn't known. It was 2 weeks later, after it became public, that the aid was released.

The testimony in the record is that the pause was not significant; it was future money, not for current purchases; and it was released before the end of the fiscal year.

They point out that some of it wasn't out the door by the end of the fiscal year. That happens every year. There is some percentage that doesn't make it out the door by the end of the year.

Again, it is 5-year money. It is not like it is all going to be spent in the next 30, 60, 90 days anyway. So the fact that there was a little fix—Congress passed a fix to allow that $35 million to be spent; something similar happens for some amount almost every year; and it was not affecting current purchases—it wasn't jeopardizing anything at the frontlines. There is no evidence about that in the record. The evidence is to the contrary.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Maine is recognized.

Mr. KING. Mr. Chief Justice, I have a question for both sets of counsel, which I send to the desk.

The CHIEF JUSTICE. The question from Senator KING is for both counsel for the President and House managers:

President Trump's former chief of staff, General John Kelly has reportedly said, ''I believe John Bolton'' and suggests Bolton should testify, saying, ''If there are people that could contribute to this, either innocence or guilt, I think they should be heard.'' Do you agree with General Kelly that they should be heard?

I think, counsel for the President, it is your turn to go first.

Mr. Counsel SEKULOW. Thank you, Mr. Chief Justice, Members of the Senate, this was a bit of a topic that I discussed yesterday, and that was the information that came out of the New York Times piece about what is purportedly in a book by Ambassador Bolton.

Now, as I said, the idea that a manuscript is not in the book—there is not a quote from the manuscript in the book; this is a perception of what the statement might be. There have been very forceful statements, not just from the President but from the Attorney General. The Department of Justice stated that while the Department of Justice has not reviewed Mr. Bolton's manuscript, the New York Times account of this conversation grossly mischaracterizes what Attorney General Barr and Mr. Bolton discussed.

There was no discussion of his getting any personal favors or undue influence for the investigation, nor did Attorney General Barr state that the President's conversations with foreign leaders were improper. So again, that goes to some of the allegations that were in the article.

The Vice President said the same thing. He said: In every conversation with the President and Vice President, in preparation for our trip to Poland, the President consistently expressed his frustration that the United States was bearing the lion's share of responsibility.

There is also an interview that Ambassador Bolton had given, I think in August, about the conversation, where he said it was a perfectly appropriate conversation. I think that information is publicly available now.

So again, to move that into a change in proceeding, so to speak, I think is not correct. The evidence that has already been presented, an accusation that if you get into witnesses, and I will do this very briefly—if we get down the road on the witness issues, let's be clear, it should not be—I certainly can't dictate to this body—it should certainly not be, though, that the House managers get John Bolton, and the President's lawyers get no witnesses. We would expect that if they are going to get witnesses, we will get witnesses, and those witnesses would then—but all of that, just to be clear, changes the nature and scope of the proceedings. They didn't ask for it before.

The CHIEF JUSTICE. Thank you, counsel.

Mr. Manager SCHIFF. Senators, Mr. Chief Justice: What is the significance of the President's former Chief of Staff saying that he believes John Bolton and implicitly does not believe the President, that Bolton should testify? It is really, at the end of the day, not whether I believe John Bolton or whether General Kelly believes John Bolton but whether you believe John Bolton or whether you will have an opportunity to hear directly from John Bolton or whether you will have the opportunity to evaluate his credibility for yourself.

There are a few arguments made against this. Some are rather extraordinary. It would be unprecedented, the suggestion, I think is, to have witnesses in the trial. What an extraordinary idea. But as my colleagues have said, it would be extraordinary not to. This would be the first impeachment trial in history that involves no witnesses, if you decide you don't want to hear from any, that you simply want to rely on what was investigated in the House. That would be unprecedented.

Yes, we should be able to call witnesses, and, yes, so should the President—relevant witnesses.

Now, the President says that you can't believe John Bolton, and Mick Mulvaney says you can't believe John Bolton. Well, let the President call Mick Mulvaney, another relevant witness with firsthand information. If he is willing to say publicly, not under oath, that Bolton is wrong, let him come and say that under oath. Yes, we are not saying that just one side gets to call witnesses; both sides get to call relevant witnesses.

Now, they also make the argument, implicitly, that this is going to take long. Senators, warn you, if you want to have a real trial, it is going to require witnesses, and that is going to take time. I think the underlying threat—and I don't mean this in a harsh way—is: We are going to make this really time-consuming.

The depositions took place very quickly in the House. We have a perfectly good Chief Justice behind me that can rule on evidentiary issues. What is more, the President has waived and waived and waived any claim about national security here by talking about himself, by declassifying the call record.

We are not interested in asking Bolton about Venezuela or other places or other countries, just Ukraine. If there is any question about it, the Chief Justice can resolve. These are relevant questions to the matter at hand. What you cannot do is use privilege to hide any wrongdoing of an impeachable kind and character.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Utah.

Mr. LEE. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senators CRUZ and HAWLEY.

The CHIEF JUSTICE. The question is directed to counsel for the President:

Is it true that Sean Misko, Abigail Grace, and the alleged whistleblower were employed by or detailed to the National Security Council during the same time period between January 20, 2017, and the present? Do you have reason to believe that they knew each other? Do you have any reason to believe that the alleged whistleblower and Misko coordinated to fulfill their reported commitment to ''do everything we can to take out the President''?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, the only knowledge that we have—that I have of this comes from public reports. I gather that there is a news report in some publication that suggests a name for the whistleblower, suggests where he worked, that he worked at that time while detailed to the NSC staff for then-Vice President Biden and that there were others who worked there. We have no knowledge of that, other than what is in those public reports, and I don't want to get into speculating about that. It is something that, to an unknown extent, may have been addressed in the testimony of the inspector general of the intelligence community before Chairman SCHIFF's committees, but that testimony, contacts with the whistleblower, contacts between members of Manager SCHIFF's staff and the whistleblower are shrouded in secrecy to this day. We don't know what the testimony of the ICIG was. That remains secret. It has not been forwarded.

We don't know what Manager SCHIFF's staff's contact with the whistleblower have been and what connections there are there. It is something that would seem to be relevant, since the whistleblower started this entire inquiry, but I can't make any representations that we have particular knowledge of the facts suggested in the question. We know that there was a public report suggesting connections and prior working relationships between certain people—not something that I can comment on other than to say that there is a report there.

We don't know what the ICIG discussed. We don't know what the ICIG was told by the whistleblower. Other public reports about inaccuracies in the whistleblower's report to the ICIG, we don't know the testimony on that. We don't know the situation of the contacts, coordination, advice provided by Manager SCHIFF's staff to the whistleblower. That all remains unknown, but something that obviously—to get to the bottom of motivations, bias, how this inquiry was all created could potentially be relevant.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from New Mexico.

Mr. HEINRICH. Mr. Chief Justice, I send a question to the desk for the President's counsel.

The CHIEF JUSTICE.

When did the President's counsel first learn that the Bolton manuscript had been submitted to the White House for review, and has the President's counsel or anyone else in the White House attempted in any way to prohibit, block, disapprove, or discourage John Bolton, or his publisher, from publishing his book?

Mr. Counsel PHILBIN. Thank you, Mr. Chief Justice, and thank you, Senator, for the question.

At some point—I don't know off the top of my head the exact date—the manuscript had been submitted to the NSC for review. It is with career NSC staff for review. The White House Counsel's Office was notified that it was there. The NSC has released a statement explaining that it has not been reviewed by anyone outside NSC staff.

In terms of the second part of the question, has there been any attempt to prevent its publication or to block its publication, I think that there was some misinformation put out into the public realm earlier today, and I can read for you a relatively short letter that was sent from NSC staff to Charles Cooper, who is the attorney for Mr. Bolton, on January 23, which was last week.

It says:

Dear Mr. Cooper: Thank you for speaking yesterday by telephone. As we discussed, the National Security Council . . . Access Management directorate has been provided the manuscript submitted by your client, former Assistant to the President for National Security Affairs John Bolton, for prepublication review. Based on our preliminary review, the

manuscript appears to contain significant amounts of classified information. It also appears that some of this classified information is at the TOP SECRET level, which is defined by Executive Order 13526 as information that ''reasonably could be expected to cause exceptionally grave harm to the national security'' of the United States if disclosed without authorization. Under federal law and the nondisclosure agreements your client signed as a condition for gaining access to classified information, the manuscript may not be published or otherwise disclosed without the deletion of this classified information.

The manuscript remains under review in order for us to do our best to assist your client by identifying the classified information within the manuscript, while at the same time ensuring that publication does not harm the national security of the United States. We will do our best to work with you to ensure your client's ability to tell his story in a manner that protects U.S. national security. We will be in touch with you shortly with additional, more detailed guidance regarding next steps that should enable you to revise the manuscript and move forward as expeditiously as possible. Sincerely,

And the signature of the career official. So it is with the NSC doing their prepublication review.

Through his lawyer, Ambassador Bolton was notified that the manuscript he submitted contains a significant amount of classified information, including at the top secret level, so that in its current form it can't be published but that they will be working with him as expeditiously as possible to provide guidance so it can be revised and so that he can tell his story.

That is the letter from the NSC that went out. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Iowa.

Ms. ERNST. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senators BURR, MCSALLY, DAINES, MORAN, YOUNG, and SASSE.

The CHIEF JUSTICE. The Senators' question is directed to counsel for the President.

Is it true the Trump administration approved supplying Javelin anti-tank missiles to Ukraine? Is it also true this decision came on the heels of a nearly three-year debate in Washington over whether the United States should provide lethal defense weapons to counter further Russian aggression in Europe? By comparison, did President Obama refuse to send weapons or other lethal military gear to Ukraine? Was this decision against the advice of his Defense Secretary and other key military leaders in his administration?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators. Thank you, Senators, for the question.

Yes, the Trump administration made the decision to provide Javelin anti-tank missiles, and there was a significant debate about that for some time. Authorization had been granted by Congress, and many of you voted for that statutory authorization during the Obama administration to provide lethal assistance to Ukraine, but the Obama administration decided not to provide that.

It was only the Trump administration that made that lethal assistance available, and there was a significant amount of testimony in the House proceedings that President Trump's policy toward Ukraine was actually stronger.

Ambassador Volker explained that America's policy toward Ukraine has been strengthened under President Trump and that each step, along the way in decisions that got to the Javelin missiles being provided, was made by President Trump. It is something that has substantially strengthened our relationship with Ukraine and strengthened their ability to resist Russian aggression.

Ambassador Yovanovitch said that President Trump's decision to provide lethal weapons meant that our policy actually got stronger over the last 3 years, and she called it ''very significant.''

Another point to make in relation to this is, again, that the pause—the temporary pause that took place over the summer—is something that the Ukrainian Deputy Defense Minister described it as being so short that they didn't even notice it. So President Trump's policies, across the board, have been stronger than the prior administration's in providing defensive capability—lethal defensive capability—to Ukrainians, and I think that that is significant.

As to the specific part of the question, Senators, whether it was contrary to the advice of the President's Defense Secretary and others, I believe that that is accurate. It was against the advice of the Secretary of Defense. It was President Trump's decision to provide the lethal assistance, and that has been made public in the past. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mrs. FEINSTEIN. Mr. Chief Justice.

The CHIEF JUSTICE. Senator FEINSTEIN.

Mrs. FEINSTEIN. Thank you, Mr. Chief Justice. I send a question to the desk on behalf of Senators CARPER, COONS, HIRONO, LEAHY, TESTER, UDALL, and myself to the House managers. Thank you.

The CHIEF JUSTICE. The question from Senator FEINSTEIN and the other Senators is to the House managers:

The President has taken the position that there should be no witnesses and no documents provided by the executive branch in response to these impeachment proceedings. Is there any precedent for this blanket refusal to cooperate, and what are the consequences if the Senate accepts this position here?

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, President Trump has taken really an extreme measure to hide this evidence from Congress. No President has ever issued an order to direct a witness to refuse to cooperate in an impeachment inquiry before this.

Despite his famous attempts to conceal the most damaging evidence against him, even President Nixon allowed senior officials to testify under oath. Not only did he allow them; he told them to go to Congress voluntarily and answer all relevant questions truthfully.

But President Trump issued a blanket order directing the entire executive branch to withhold all documents and testimony from the House of Representatives. His order was categorical. It was indiscriminate and unprecedented. Its purpose was clear: to prevent Congress from doing its duty under the Constitution to hold the President accountable for high crimes and misdemeanors.

Telling every person who works in the White House and every person who works in every department, agency, and office of the executive branch is just unprecedented. It wasn't about specific, narrowly defined privileges. He never asserted privileges, and the President's counsel has mentioned over and over that he had some reason because of the subpoenas.

Well, I tell you, we adopt rules about subpoenas in the House. The Senate is a continuing body, but the House isn't. In January, we adopted our rules, and it allows the committee chairman to issue subpoenas, and that is what they did.

He refused to comply with those subpoenas, not because he exerted executive privilege but because he didn't like what we were doing. He tried to say it was invalid, but it was valid.

Actually, he doesn't have the authority to be the arbiter of the rules of the House. The House is the sole arbiter of its rules when it comes to impeachment.

Now, this refusal to give testimony, documents, and the like is still going on. We still have former or current administration officials who are refusing to testify. You know, we would not allow this in any other context. You know, if a mayor said that I am not going to answer your subpoenas, they would be dealt with harshly if it was to cover up misdeeds and crimes, as we have here. The mayor would actually go to jail for doing that.

If we allow the President to avoid accountability by simply refusing to provide any documents, any witnesses—unlike every single President who preceded him—we are opening the door not just to eliminating the impeachment clause in the Constitution. Try doing oversight. Try doing oversight, Senators, working without that in the House. If the President can just say, we are not sending any witnesses; we are not sending any documents; we don't have to; we don't like your processes; we have a wholesale rejection of what you are doing—that is not the way our Constitution was created. Each body has a responsibility. There is sharing of power. I, and I know you, cherish the responsibility that we have that would be eviscerated if the President's complete stalling is allowed to persist and be accepted by this body. You have to act now in this moment in history.

I yield back.

The CHIEF JUSTICE. Thank you.

Mrs. CAPITO. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from West Virginia.

Mrs. CAPITO. Thank you. I send a question to the desk for the President's counsel.

The CHIEF JUSTICE. Senator CAPITO's question is for counsel for the President:

You said that Ukrainian officials didn't know about the pause on aid until August 28, 2019, when it was reported in POLITICO. But didn't Laura Cooper, the deputy assistant secretary of defense for Russia, say that members of her staff received queries about the aid from the Ukrainian Embassy on July 25? Does that mean that Ukrainian officials knew about the hold on aid earlier than the POLITICO article?

Mr. Counsel PURPURA. Mr. Chief Justice, Members of the Senate, Senator, thank you for your question.

It does not mean that. As we explained on Saturday, the overwhelming body of evidence indicates that the Ukrainians, at the very highest levels—President Zelensky and his top advisers—only became aware of the pause in the security assistance through the August 28 POLITICO article.

I addressed this on Saturday—and so those comments will stand—the emails that Deputy Assistant Secretary of Defense Laura Cooper testified about previously. What she had said was that she—her staff—had gotten emails from someone at the State Department who had had some sort of conversation with Ukrainian officials here that somehow related to the aid at a time prior to August 28. She did not know the substance of the emails or whether they mention ''hold,'' ''pause,'' ''review,'' or anything of that nature. And she even said herself that she didn't want to speculate as to what the emails meant and cannot say for certain what they were about.

I presented on Saturday the evidence, which, again, is referencing the common sense that would be in play here. This was something that on August 28 caused a flurry of activity among the highest ranking Ukrainian officials. Never before did they raise any questions at any of the meetings they had with the high-ranking U.S. officials through July and August. There were meetings on July 9, July 10, July 25 call, July 26, and August 27. At none of those meetings was the pause on aid revealed or inquired about. However, as soon as the POLITICO article came out on August 28, within hours of that POLITICO article coming out, Mr. Yermak texted the article to Ambassador Volker and asked to speak with him. That is consistent with someone finding out about it for the first time. The Ukrainians have also made statements that they learned about it for the first time.

And then Mr. Philbin just referenced an article that came out yesterday in the Daily Beast, which is an interview with Mr. Danyliuk, who was, at the time, a high-ranking defense official with the Ukrainians. This is interesting, and I am going to read this article because I think it is important, and I suggest it to the Senate if they wish to have something to consider further on this.

Danyliuk said he first found out that the U.S. was withholding aid to Ukraine by reading POLITICO's article published Aug. 28. U.S. officials and Ukrainian diplomats, including the country's former Foreign Minister Olena Zerkal, have said publicly that Kyiv was aware that there were problems with the U.S. aid as early as July.

That is the article that they have mentioned in the statement that the House managers have mentioned.

Here is Mr. Danyliuk:

''I was really surprised and shocked. Because just a couple of days prior to that . . . I actually had a meeting with John Bolton. Actually, I had several meetings with him. And we had extensive discussions. The last thing I expected to read was an article about military aid being frozen,'' Danyliuk said. ''After that . . . I was trying to get the truth. Was it true or not true?''

Danyliuk said that ''it was a panic'' inside the Zelensky administration after the initial news broke, saying Zelensky was convinced there had been some sort of mistake.

That is President Zelensky.

Danyliuk put in calls to the National Security Council and asked other officials in Washington what to make of the news.

Again, this is on August 28, or right after August 28.

''The next time we met in September . . . it was in Poland for the commemoration of the beginning of the Second World War''—

The Warsaw meeting we discussed previously—

Danyliuk said, adding that he met with Bolton on the sidelines of the commemoration. ''I had my suspicions. There was a special situation with one of our defense companies that were acquired by the Chinese. And the U.S. was concerned about this. Bolton actually made the public comments about this as well. So somehow I linked this to things and tried to understand. OK, maybe this could be related to this.''

So not only did they not know until August 28—when they did find out—but they didn't link it to any investigation. Where is the quid pro quo? If it is such at the forefront of their minds, such pressure on them that the Ukrainians have to do these investigations to get the aid, when the aid was held up, they didn't think it was connected to the investigations.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Maryland.

Mr. CARDIN. Mr. Chief Justice, I have a question on behalf of Senator BALDWIN and myself, and I send it to the desk.

The CHIEF JUSTICE. The question is addressed to the House managers:

Is the White House correct in its trial memorandum and in presentations of its case that ''President Zelensky and other senior Ukrainian officials did not even know that the security assistance had been paused'' before seeing press reports on August 28, 2019, which was more than a month after the July 25 phone call between Presidents Zelensky and Trump?

Mr. Manager CROW. Thank you, Chief Justice and Senators, for the question.

The answer is no. The evidence does not show that. We know that Defense Department official Laura Cooper testified that her staff received 2 emails from the State Department on July 25 revealing that the Ukrainian Embassy was ''asking about security assistance,'' and, in fact, counsel for the President brought up these emails just now. I would propose that the Senate subpoena those emails and we can all see for ourselves what exactly was happening.

We also know that career diplomat Catherine Croft stated that she was ''very surprised at the effectiveness of my Ukrainian counterparts' diplomatic tradecraft, as in to say they found out very early on, or much earlier than I expected them to,'' and that LTC Alex Vindman testified that by mid-August he was getting questions from Ukrainians about the status of security assistance.

So the evidence shows over and over again from the House inquiry that there was a lot of discussion, and there should be because we also know that delays matter. They matter a lot. You don't have to take my word for it. This is not just about a 48-day delay. Ukrainians were consistently asking about it because it was urgent. They needed it. They needed it.

You know who else was asking for it—American businesses. The contractors who were going to be providing this were also making inquiries about it because there is a pipeline.

As my esteemed Senate Armed Services colleagues know very well, providing aid is not like turning on and off a light switch. You have to hire employees. You have to get equipment. You have to ship it. It takes a long time for that pipeline to go. In fact, we had to come together as a Congress to pass a law to extend that timeline because we were at risk of losing it. And to this day, $18 million of that aid has still not been spent.

Let's just assume for a minute, also broadly speaking, that the President's counsels' argument that support for Ukraine has never been better than it is today, that under the Trump administration, they are the strongest ally Ukraine has seen in years. Just assuming for a minute that argument to be true, it kind of makes our own argument. It kind of makes our argument: Then why hold the aid? Why hold the aid? Because nothing had changed in 2016; nothing had changed in 2017; and nothing had changed in 2018. One thing had changed in 2019, and that was Vice President Biden was running for President.

Lastly, the previous question by my Senate Armed Services colleagues framed this in terms of the military impact. They asked: What was greater in terms of military impact, not providing lethal aid or a 48-day delay?

Let's not forget the reason for the delay, because there is a lot of discussion today about the technicalities of the delay and that the President's

mentality, his mindset, doesn't matter. It doesn't matter what he intended to do. I would posit that is exactly why we are here—that it does matter what the President intended to do because in matters of national security, the American people deserve to go to bed every night knowing that the President, the Commander in Chief, the person who is ultimately responsible for the safety and security of our Nation every night, has the best interests of them and their families and this country in mind, not the best interests of his political campaign. That is why we are here.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Ms. COLLINS. Mr. Chief Justice.

The CHIEF JUSTICE. Senator.

Ms. COLLINS. I send a question to the desk on behalf of myself and Senator MURKOWSKI.

The CHIEF JUSTICE. Thank you.

The question is to counsel for the President:

Witnesses testified before the House that President Trump consistently expressed the view that Ukraine was a corrupt country. Before Vice President Biden formally entered the 2020 presidential race in April 2019, did President Trump ever mention Joe or Hunter Biden in connection with corruption in Ukraine to former Ukrainian President Poroshenko or other Ukrainian officials, President Trump's cabinet members or top aides, or others? If so, what did the President say to whom and when?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for that question.

Of course, I think it is important at the outset to frame the answer by bearing in mind I am limited to what is in the record, and what is in the record is determined by what the House of Representatives sought. It was their proceeding. They were the ones who ran it. They were the ones who called the witnesses. Part of the question refers to conversations between President Trump and other Cabinet members and others like that. There is not something in the record on that. It wasn't thoroughly pursued in the record, so I can't point to something in the record that shows President Trump, at an earlier time, mentioning specifically something related to Joe or Hunter Biden.

It is in the record that he spoke to President Poroshenko twice about corruption in Ukraine, both in June of 2017 and again in September of 2017. But there is other information publicly available and in the record that I think is important for understanding the timeline and understanding why it was that the information related to the Bidens and the Burisma affair came up when it did.

One important piece of information to bear in mind is that from the tapes we have seen, President Poroshenko was the person who Joe Biden himself went to to have the prosecutor fired. So as long as President Poroshenko was still in charge in Ukraine, he was the person who Joe Biden had spoken to to get the prosecutor, Shokin, fired when, according to public reports, Shokin was looking into Burisma. As long as he was still the President in Ukraine, it questioned the utility of raising an incident in which he was the one who was taking the direction from Vice President Biden to fire the prosecutor.

When you have an election in April of 2019 and you have a new President—President Zelensky—who has run on an anti-corruption platform, and there is a question ''Is he really going to change things; is there going to be something new in Ukraine?'' it opens up an opportunity to really start looking at anti-corruption issues and raising questions.

The other thing to understand in the timeline is that we have heard a lot about Rudy Giuliani, the President's private lawyer, and what was he interested in in Ukraine and what was his role? Well, as we know—it has been made public—Mr. Giuliani, the President's private lawyer, had been asking a lot of questions in Ukraine dating back to the fall of 2018, and in November 2018, he said publicly he was given some tips about things to look into.

He gave a dossier to the State Department in March of this year. Remember, Vice President Biden announced his candidacy in April—April 25. In March, Rudy Giuliani gave documents to the State Department, including interview notes from interviews he conducted both with Shokin and with Yuriy Lutsenko, who was also a prosecutor in Ukraine. Those interview notes are from January 23 and January 25, 2019—so months before Vice President Biden announced any candidacy—and it goes through in these interview notes, Shokin explaining that he was removed at the request of Mr. Joseph Biden, the Vice President. It explains that he had been investigating Burisma and that Hunter was on the board, and it raises all of the questions about that.

So it was Mr. Giuliani who had been, as Jane Raskin as counsel for the President explained the other day—Mr. Giuliani is looking into what went on in Ukraine: Is there anything related to 2016? Are there other things related there?

And he is given this information—tips about this—and starts pursuing that as well. He is digging into that in January of 2019.

We know that Mr. Giuliani is the President's private counsel. I can't represent specific conversations they had. They would be privileged. But we do know from testimony that the President said in a May 23 Oval Office meeting with respect to Ukraine: Talk to Rudy. Rudy knows about Ukraine. It seems from that that the President gets information from Mr. Giuliani.

Months before Vice President Biden announced his candidacy, Mr. Giuliani is looking into this issue, interviewing people, and getting information about it.

In addition, in March of 2019, articles began to be published. Then three articles were published by ABC, by the New Yorker, and by the Washington Post before the July 25 call.

On July 22, 3 days before the call, the Washington Post has an article specifically about the Bidens and Burisma. That is what makes it suddenly current, relevant, probably to be in someone's mind.

That is the timeline.

The CHIEF JUSTICE. Thank you, counsel.

Mr. Counsel PHILBIN. Thank you, Senator.

Ms. HARRIS. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from California.

Ms. HARRIS. Thank you. I send a question to the desk on behalf of Senator PATTY MURRAY and myself.

The CHIEF JUSTICE. Senators HARRIS and MURRAY ask the House managers:

The House of Representatives is now in possession of a tape of President Trump saying of Ambassador Maria Yovanovitch, ''Get rid of her! Get her out tomorrow. I don't care. Get her out tomorrow. Take her out. Okay? Do it.'' President Trump gave this order to Lev Parnas and Igor Fruman, two men who carried out Trump's pressure campaign in Ukraine at the direction of Rudy Giuliani. Does the discovery of this tape suggest that if the Senate does not pursue all relevant evidence—including witnesses and documents—that new evidence will continue to come to light after the Senate renders a verdict?

Mr. Manager SCHIFF. The answer is yes.

What we have seen, really, over the last several weeks, since the passage of the articles in the House of Representatives, is that every week—indeed, sometimes every day—there is new information coming to light.

We know there is going to be new information coming to light on March 17, when the Bolton book comes out; that is, if the NSC isn't successful in redacting it or preventing much of its publication.

On that issue, I do want to mention one other thing in response to the question about the Bolton manuscript and what the White House lawyers knew. I listened very carefully to the answer to that question, and maybe you listened more carefully than I did. What I thought I heard them say in answer to the question ''What did they know about the manuscript and when did they know it?''—their statement was very precisely worded: The NSC unit reviewing the book did not share the manuscript.

Well, that is a different question than whether the White House lawyers found out what is in it, because you don't have to circulate the manuscript to have someone walk over to the White House and say: You do not want John Bolton to testify. Let me tell you, you do not want John Bolton to testify. You don't need to read his manuscript because I can tell you what is in it.

The denial was a very carefully worded one. I don't know what White House lawyers knew and when they knew it, but they did represent to you repeatedly that the President never told a witness that he was freezing the aid to get Ukraine to do these investigations.

We know that is not true. We know that from the witnesses we have already heard from, but we also know—at least if the reporting is correct, and you should find out if it is—that John Bolton tells a very different story.

There are going to continue to be revelations, and Members of this body on both sides of the aisle are going to have to answer a question each time it does: Why didn't you want to know that when it would have helped inform your decision?

In every other trial in the land, you call witnesses to find out what you can. Again, we are not a court of appeals here. We are the trial court. We are not confined to the record below. There is no ''below.'' In answer to the Senator's question about whether Donald Trump ever brought up the Hunter Biden problem with President Poroshenko in the past, counsel says: Well, we are confined to the record before us.

You are not confined to the record in the House, nor is the President. The President could call witnesses if they existed. There is nothing to prevent them from saying: As a matter of fact, tomorrow we are going to call such and such, and they are going to testify that, indeed, Donald Trump brought up Hunter Biden to President Poroshenko. There is nothing prohibiting them from doing that.

At the end of the day, we are going to continue to see new evidence come out all the time. Among the most significant evidence, we know what that is going to be. And the effort to suggest, well, because this President was stronger in Javelins than his predecessor—when we know from the July 25 call, the moment that Zelensky brings up the Javelins, what is the very next thing the President says? He wants a favor.

The question is, Why did he stop the aid? Why did he stop the aid this year and no prior year? Was it merely a coincidence? Are we to believe it was merely a coincidence that it was the year that Joe Biden was running for President? Are we to believe that, of all the companies in all the land—of all the gin joints in all the land—of Ukraine, that it was just Hunter Biden walking into this one; that was the reason why; that he was interested in Burisma was just a coincidence that involved the son of his opponent?

But, look, more and more is coming out. Let's make sure that you learn whatever you feel you need to know to render a judgment now, when it can inform your decision, and not later.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Nebraska.

Mrs. FISCHER. Mr. Chief Justice, I send a question to the desk on behalf of myself, Senator CRAPO, and Senator RISCH.

The CHIEF JUSTICE. The Senators ask counsel for the President:

> The President's counsel has underscored the Administration's ongoing anticorruption focus with our allies. At what point did the United States Government develop concerns about Burisma in relation to corruption and concerns with Russia?

Mr. Counsel PHILBIN. Mr. Chief Justice, I thank the Senators for that question. I think it bears on the answer that I was last giving to the last question.

This is something that became—of course, President Trump, in his conversation with President Zelensky in the July 25 call, as the transcript shows us, brought up a couple of things. He brought up burden-sharing specifically, and he raised the issue of corruption in two specifics: the specific case of potential Ukraine interference in the 2016 election, which he had heard about and asked about, and the incident involving the firing of a prosecutor who, according to public reports, had been looking into Burisma, the company that the Vice President's son was on the board of. That was the President's way of pinpointing specific issues related to corruption.

So when did it become a part of the President's concern, those issues related to corruption in Ukraine? Of course, we have the evidence that everyone in the government—and Fiona Hill testified to this—thought that anti-corruption was a major issue for U.S. policy with respect to Ukraine. When there was a new President elected in April, President Zelensky, that brought the possibility of reform to the forefront.

Then we know that the President was receiving information from his private attorney, Rudy Giuliani, and he spoke in the Oval Office of, Rudy knows about the Ukraine. You guys go talk to him.

He was explaining to the delegation that had just returned from the inauguration for the President, for President Zelensky, that he had concerns about Ukraine because they are all corrupt. He kept saying: It is a corrupt country. I don't know. They tried to get me in the election.

So it draws again on, there is his specific experience with Ukrainian corruption because he knew from the public reports, as in the POLITICO article that has been referenced many times. The POLITICO article in January of 2017 explained a laundry list of Ukrainian Government officials who had been out there attempting to assist the Hillary Clinton campaign and spread misinformation or bad information or assist in digging up dirt on members of the Trump campaign.

Mr. Giuliani had been investigating things related to Ukraine in 2016 and was led to the information about the Burisma situation and Vice President Biden having the prosecutor fired. So that was in January that he had these interviews he turned over to the State Department in March.

Then there were a series, also, of public articles published. John Solomon, in The Hill, published an article in March. Rudy Giuliani tweeted about it in March. There was an ABC story in June. There was a two-part New Yorker story about the Bidens and Burisma in July. Then, on July 22, the Washington Post had an article and explained specifically on just July 22—this is 3 days before the July 25 call—the Washington Post reported that Mr. Shokin, the prosecutor, believed ''his ouster was because of his interest in the company,'' referring to Burisma, and he said that ''had he remained in his post, he would have questioned Hunter Biden.''

So I think it is a reasonable inference that, as there were these articles being published in close proximity to the time, this was information that was available to the President, and it became available to him as something that was a specific example of potentially serious corruption. And remember, everyone who testified, who was asked about it—does it seem like there is an appearance of a conflict of interest? Does it seem like that is fishy? Everyone testified: Well, yes, there is at least an appearance of a conflict of interest there.

I think it was after the information had come to Mr. Giuliani—long before Vice President Biden had announced his candidacy—that it came to the attention of the President and became something worth raising. Again, President Poroshenko is the one who fired the prosecutor. While he is still the President, there is not really as much of an opportunity or a possibility of raising that. So I think it was in that timeframe, along that arc of the timing, that it came to the President's attention, and that is why it was raised in that timing.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. Chief Justice, I have a question for the counsel for the President.

The CHIEF JUSTICE. Senator BLUMENTHAL asks:

> Did anyone in the White House, or outside the White House, tell anyone in the White House Counsel's Office that publication of the Bolton book would be politically problematic for the President?

Mr. Counsel PHILBIN. Mr. Chief Justice, I thank the Senator for the question.

No, no one from inside the White House or outside the White House told us that the publication of the book would be problematic for the President. I think we assumed that Mr. Bolton was disgruntled, and we didn't expect he was going to be saying a lot of nice things about the President, but no one told us anything like that.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Texas.

Mr. CRUZ. I send a question to the desk on behalf of myself and Senators MORAN and HAWLEY. It is a question for the House managers.

The CHIEF JUSTICE. The question from the Senators to the House managers:

An August 26, 2019, letter from the Intelligence Community Inspector General to the Director of National Intelligence discussing the so-called whistleblower stated that the Inspector General ''identified some indicia of an arguable political bias on the part of the Complainant in favor of a rival political candidate.'' Multiple media outlets reported that this likely referred to the whistleblower's work with Joe Biden.

Did the so-called whistleblower work at any point for or with Joe Biden? If so, did he work for or with Joe Biden on issues involving Ukraine, and did he assist in any material way with the quid pro quo in which then-Vice President Biden has admitted to conditioning loan guarantees to Ukraine on the firing of the prosecutor investigating Burisma?

Mr. Manager SCHIFF. Mr. Chief Justice, I thank the Senators for the question, and I want to be very careful in how I answer it so as not to disclose or give an indication that may allow others to identify the identity of the whistleblower.

First, I want to talk about why we are making such an effort to protect the identity of the whistleblower.

If you could put up slide 48, this slide shows—it may be difficult for some of you to read, so let me try to—actually, if you could hand me a copy of that as well. I haven't had a chance to distribute that to everyone.

It is not just that we view the protection of whistleblowers as important. Members of this body have also made strong statements about just how important it is to protect whistleblowers. Senator GRASSLEY said: ''This person appears to have followed the whistleblower protection laws and ought to be heard out and protected. We should always work to respect whistleblowers' requests for confidentiality.''

Senator ROMNEY: ''Whistleblowers should be entitled to confidentiality and privacy because they play a vital function in our democracy.''

Senator BURR: ''We protect whistleblowers. We protect witnesses in our committee.''

Even my colleague, the ranking member, Mr. NUNES: ''We want people to come forward, and we will protect the identity of those people at all cost.''

This has been a bipartisan priority and one that we have done our best to maintain, so I want to be very careful, but let me be clear about several things about the whistleblower.

First of all, I don't know who the whistleblower is. I haven't met them or communicated with them in any way. The committee staff did not write the complaint or coach the whistleblower what to put in the complaint. The committee staff did not see the complaint before it was submitted to the inspector general. The committee, including its staff, did not receive the complaint until the night before the Acting Director of National Intelligence—we had an open hearing with the Acting Director on September 26, more than 3 weeks after the legal deadline by which the committee should have received the complaint.

In short, the conspiracy theory, which I think was outlined earlier, that the whistleblower colluded with the Intel Committee staff to hatch an impeachment inquiry is a complete and total fiction. This was, I think, confirmed by the remarkable accuracy of the whistleblower complaint, which has been corroborated by the evidence we subsequently gathered in all material respects.

So I am not going to go into anything that could reveal or lead to the revelation of the identity of the whistleblower, but I can tell you, because my staff's names have been brought into this proceeding, that my staff acted at all times with the most complete professionalism.

I am very protective of my staff, as I know you are, and I am grateful that we have such bright, hard-working people working around the clock to protect this country and who have served our committee so well. It really grieves me to see them smeared. Some of them mentioned here today have concerns about their safety, and there are online threats to members of my staff as a result of some of the smears that have been launched against them.

I can tell you there is no one who could understand the plight of Ambassador Yovanovitch more than some of my staff who have been treated to the same kind of smears and now have concerns over their own safety. They acted at all times with the utmost propriety and integrity.

Your Senate Intelligence Committee—and your chairman and vice chairman can tell you—encourage whistleblowers to come to their committee, and so do we. When they do, we try to figure out, is their complaint within the scope of jurisdiction of the intelligence community? And if it is, then we suggest they get a lawyer or we suggest they talk to the inspector general, which is what happened here. The whistleblower did exactly what they should—except, for the President, that is unforgivable because the whistleblower exposed the wrongdoing of the President. In the President's view, that makes him or her a traitor or a spy, and, as the President tells us, there is a way we used to treat traitors and spies.

You wonder why we don't want to call the whistleblower. First of all, we know firsthand what the whistleblower wrote secondhand in that complaint. There is no need for that whistleblower anymore, except to further endanger that person's life. That, to me, does not seem a worthwhile object for anyone in this Chamber or on the other side of this building, in the Oval Office, or anywhere else.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. Chief Justice, on my own behalf and on behalf of Senators BLUMENTHAL, BOOKER, COONS, KLOBUCHAR, LEAHY, MARKEY, PETERS, and UDALL, I send a question to the desk.

The CHIEF JUSTICE. The question is from Senator WHITEHOUSE and other Senators to the House managers:

The ''missing-witness'' rule—which dates back to 1893 Supreme Court case Graves v. United States—allows one party to obtain an adverse inference against the other for failure to produce a witness under that party's control with material information. Here, one party, the President, has prevented witnesses within his control from testifying or providing documents. Do the House managers believe Senators should apply the missing witness rule here, and if so, what adverse inferences should we draw about the missing testimony and documents?

Mr. Manager SCHIFF. Mr. Chief Justice, Senators, we do believe that you should draw an adverse inference against the party resisting the testimony of these witnesses, like John Bolton. Courts have long recognized that when a party has relevant evidence within his control, which he fails to produce, that failure gives rise to an inference that that evidence is unfavorable to him.

Courts have frequently drawn adverse inferences where a party acts in bad faith to conceal evidence or preclude witnesses from offering testimony.

I would suggest that it is bad faith when counsel comes before you and says that if you really wanted these witnesses, you should have sued to get them in the House and goes into the courtroom down the street and says: You can't sue to get witnesses before the House.

But that is what has happened here. And you are, I think, not only permitted but absolutely should draw an adverse inference that when a party is making that argument on both sides of the courthouse, that the evidence those witnesses would provide runs against them.

Now, the administration hasn't produced a single document, not one single document. That is extraordinary. They can argue executive privilege and absolute immunity. Most of that has nothing to do with the overwhelming majority of these documents, not a wit. There is no absolute immunity from providing documents. The vast, vast majority don't have anything to do with privilege, and, if they did, there would be redactions, very specific redactions. None of that happened.

Are you allowed to draw an adverse inference that the reason why the President's team, which has possession of those emails regarding inquiries by Ukraine into why the aid was frozen—are you allowed to draw an inference—if they won't show you those emails. Those emails would confirm that Ukraine knew the aid was withheld,

just like the former Deputy Foreign Minister of Ukraine said publicly when she told the New York Times: Yes, we knew; by the end of July, we knew—this is the Deputy Foreign Minister at the time—we knew the aid was frozen, but I was instructed by Andriy Yermak not to mention it. I had a trip planned to Washington to talk to Congress, and I was told not to go. Why? Because they didn't want it public.

Are you entitled to draw an inference that those records they refused to turn over—all the State Department records; the fact that they won't allow John Bolton's notes to be turned over; they won't let Ambassador Taylor's notes to be turned over—should you draw an adverse inference? You are darned right you should.

They say: Well, the President only told Sondland ''no quid pro quo.'' They leave out the other half where Sondland told Taylor: But he said, no quid pro quo, but you have to go to the mike and announce these investigations.

Well, Ambassador Taylor wrote down the notes of that conversation. That took place right after that call with the President. Are you allowed to draw an adverse inference from the fact that they don't want you to see Ambassador Taylor's notes, from the fact they don't want you to see Ambassador Taylor's cable? You are darned right you should draw an adverse inference.

Finally, with respect to who has become a central witness here, I think the adverse inference screams at you as to why they don't want John Bolton. But you shouldn't rely on an inference here, not when you have a witness who is willing to come forward. There is no need for inference here. It is just a need for a subpoena.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. THUNE. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from South Dakota.

Mr. THUNE. I have a question to send to the desk.

The CHIEF JUSTICE. Senator THUNE's question is for counsel for the President:

Would you please respond to the arguments or assertions the House managers just made in response to the previous questions?

Mr. Counsel PHILBIN. Mr. Chief Justice.

Thank you, Senator, for the question.

I haven't read recently the case that was cited about the missing witness rule. So I can't say specifically what is in it, but I am willing to bet that the missing witness rule does not apply when there has been a valid assertion of a privilege or other immunity for keeping the witness out of court. For example, if they tried to subpoena the defendant's lawyer and the defendant said, ''Wait, I have attorney-client privilege; you can't subpoena him,'' they are not going to be able to get an adverse inference from that.

That is critical because, as I have gone through multiple times—and you know, we keep going back and forth on this—they keep representing that there was a blanket defiance and there was no explanation and there was no legal basis for what the President was doing. And it is just not true. There were letters back and forth. I put them up on the screen. There were specific immunities asserted. There were specific legal deficiencies in the subpoenas that were sent.

This is important because if you are going to impeach the President of the United States, turning square corners and proceeding by the law matters. For the House managers to come here and say it was blanket defiance, it was unprecedented, you have to draw an adverse inference against them because they didn't respond to any of our document subpoenas—all the document subpoenas were issued without authorization. Maybe they disagree with us, but they can't just say we provided no rationale and you have to draw an adverse inference. There is a specific legal rationale provided.

They didn't try to engage in the accommodation process, and they didn't try to go to court. And now, yes, it is true that our position is that when they go to the court, article III courts don't have jurisdiction over that. Their position is, article III courts do have jurisdiction over that.

They believe that they can get a court order to require us to comply with a valid subpoena, but they never tried to establish in court that their subpoenas were valid. We have an assertion of a legal deficiency on one side. They think it is different. They don't want to go to court to get it resolved.

We have the assertion of absolute immunity from congressional compulsion for senior advisers to the President. It has been asserted by virtually every President since Nixon. They try to say: Oh, it is preposterous. It is irrelevant. We don't have to worry about that.

Every President since Nixon, virtually, has asserted that. It has only been addressed by two district courts—trial-level courts. The first one rejected it, and its decision was stayed by the appellate court, which means the appellate court thought probably you got it wrong or, at a minimum, it is a really difficult question; we are not sure about that. And the second district court decision is being litigated right now. They are litigating it. And when Charlie Kupperman went to court, they were trying to do something reasonable to say: Oh, well, we don't want to litigate this with you; you should just agree to be bound by the McGahn decision. What is the saying? Every litigant gets his day in court. Why shouldn't Charlie Kupperman get to have his counsel argue that issue on his behalf? That is what he wanted. He didn't want to say: I am going to trust it to the other people litigating the other case. I've got my case. I want to make the arguments.

But they wouldn't have that. So they mooted out the case. They withdrew the subpoena to moot out the case because they didn't want to go to the hearing in front of Judge Leon on December 10.

They have also pointed out, as if it is some outrage, that documents have been more readily produced under FOIA than in response to their subpoenas. But what that actually shows is that when you turn square corners and follow the law and make a request to the administration that follows the law, the administration follows the law and responds. And that is right. The documents were produced. Information came out. But they didn't get it because they issued invalid subpoenas, and they didn't try to do anything to establish the validity of their subpoenas.

If you are going to be sloppy and issue invalid subpoenas, you are not going to get a response. But if some private litigant follows FOIA and submits a FOIA request, they get a response.

To act like the Trump administration has done some blanket denial of everything simply isn't accurate, and there is no basis for any adverse inference because there is a specific privilege or basis for every reason not to produce something.

The CHIEF JUSTICE. Thank you, counsel.

Ms. HASSAN. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from New Hampshire.

Ms. HASSAN. Thank you, Mr. Chief Justice.

I send a question to the desk for the House managers.

The CHIEF JUSTICE. Senator HASSAN's question is for the House managers:

Did acting Chief of Staff Mick Mulvaney waive executive privilege in his October 17 press conference in which he stated that there was ''political influence'' in the Trump administration's decision to withhold aid to Ukraine?

Mr. Manager JEFFRIES. Mr. Chief Justice, distinguished Members of the Senate, I thank you for that question.

Mick Mulvaney has absolutely waived executive privilege. He has never asserted executive privilege. In fact, as President's counsel has acknowledged, they have not asserted executive privilege once. President's counsel has said, when we made that point during our opening arguments, that that was technically true. No, it is true. It is not an alternate fact; it is a fact. You have never asserted executive privilege in connection with Mick Mulvaney's testimony or anyone else. It was not asserted as it relates to any of the 17 witnesses who testified, 12 of whom testified publicly.

The other phony arguments that have been articulated, respectfully, are that the House needed to vote in order for the subpoenas to be valid. There is nothing in the Constitution that required the full House to vote, nothing

in Supreme Court precedent, nothing under Federal law, nothing under the House rules. It was a phony argument. Yet the House, after the initial stages of the investigation, did fully vote and fully voted on October 31.

Interestingly enough, Mick Mulvaney was subpoenaed thereafter—not before, thereafter—after the House had voted, subpoenaed on November 7. Here it is. The next day, the White House responded. They responded with a two-page letter dated November 8. There is no mention of executive privilege in the November 8 letter, but here is what it does say: ''The Department of Justice (the ''Department'') has advised me that Mr. Mulvaney is absolutely immune from compelled congressional testimony with respect to matters related to his service as a senior adviser to the President.''

What is interesting about this letter from Mr. Cipollone is that it doesn't cite a single legal case for that outrageous proposition—a single legal case for the proposition that Mick Mulvaney is absolutely immune. Why? Because there is no law to support it. The President tried to cheat, he got caught, and then he worked hard to cover it up.

The Senate can get to the truth. You can get to the truth by calling witnesses who can testify. Any privilege issues can be worked out by the Chief Justice of the Supreme Court. The American people deserve a fair trial. The President deserves a fair trial. The Constitution deserves a fair trial. That includes Mulvaney. That includes Bolton. That includes other relevant witnesses.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Alaska.

Ms. MURKOWSKI. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senator YOUNG and Senator CRAPO. The question is to be directed to both parties.

The CHIEF JUSTICE. Thank you.

The question directed to counsel for the President and the House managers:

The Constitution does not specify the standard of proof to be used in trials of impeachment, and the Senate has not adopted a uniform standard by rule, thus, the standard of proof is arguably a question for each individual Senator. In the Clinton trial and now with President Trump, it appears that Republicans and Democrats apply different standards depending on whether the President is a member of their party. What standard of proof should be used in trials of impeachment—preponderance of the evidence, clear and convincing, beyond a reasonable doubt—and why?

I think it is the turn of the House managers to go first.

Ms. Manager LOFGREN. Mr. Chief Justice, Senators, there is no court case on this. The House needs strong evidence, but it has never been decided beyond a reasonable doubt, as the President's counsel has suggested, and, as the question notes, the Constitution does not specify either the House's evidentiary burden of proof or the Senate's.

I would note that the House Judiciary Committee held itself to a clear and convincing standard of proof in the Nixon matter, which requires that the evidence of wrongdoing must be substantially more probable to be true than not and that the trier of fact must have a firm belief in its factuality. In the Clinton case, the House did not commit to any particular burden of proof. And I would recommend against including an express standard; instead, like in Clinton's, simply finding the facts and any inferences from those facts without legal technicalities.

It has been opined that, in the end, it is up to each Senator to make a judgment, and I think there is much truth to that. Your oath holds you to a finding of impartial justice, and I trust that each and every one of you is holding that oath very dear to your heart and will find the facts and lead to a just result for our country, the Constitution, and for a future that hopefully is as free as our past has been.

I yield back.

The CHIEF JUSTICE. Thank you.

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for the question.

I think that the Constitution makes it clear in the terms that it speaks of impeachment, all are related to the criminal law. It speaks of an offense. It speaks of conviction. It speaks of a trial in saying that crimes shall be tried by a jury except in the case of impeachment.

In both that and the gravity of a Presidential impeachment, which is an issue of breathtaking importance for the country and could cause tremendous disruption to our government, both counsel are in favor of traditional criminal standard of proof beyond a reasonable doubt.

In the Clinton impeachment, Senators—both Republicans and Democrats—repeatedly advocated in favor of that standard.

Senator Russ Feingold then said:

In making a decision of this magnitude, it is best not to err at all. If we must err, however, we should err on the side . . . of respecting the will of the people.

Similarly, Senator Barbara Mikulski said:

The U.S. Senate must not make the decision to remove a President based on a hunch that the charges may be true. The strength of our Constitution and the strength of our Nation dictate that the Senate be sure beyond a reasonable doubt.

The preponderance standard is wholly insufficient. That means just 50.1 percent. You think it is a little more likely than not. That is not sufficient to remove the President. Even clear and convincing evidence is not. It has to be beyond a reasonable doubt. As Senator Rockefeller explained at the time of the Clinton impeachment, that means ''it is proven to a moral certainty the case is clear.'' That is the standard the Senators should apply because the gravity of the issue before you would not permit applying any lesser standard.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mr. BOOKER. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from New Jersey.

Mr. BOOKER. Thank you, sir.

Mr. Chief Justice, I send a question to the desk to be asked of the House manager.

The CHIEF JUSTICE. Senator BOOKER's question is for the House manager:

Even if a communication or a document is covered by executive privilege, that privilege can be overcome by showing the evidence is important and unavailable elsewhere. On January 22, while this trial was underway, President Trump said, ''I thought our team did a very good job. But honestly, we have all the material. They don't have the material.'' Can you comment on whether executive privilege allows a President to conceal information from Congress, particularly if the evidence cannot be obtained elsewhere?

Mr. Manager JEFFRIES. Thank you, Mr. Chief Justice, and I thank the distinguished Senator from New Jersey for his question.

President Trump alone has the power to assert executive privilege. As counsel admitted on Saturday, the President had not formally invoked it over any document requested in this impeachment inquiry. This has not been asserted as it relates to any single document. Executive privilege gives President Trump a qualified form of confidentiality when he does get advice from his aides in order to carry out the duties of his office.

As I know you are all aware, it is often the case in congressional investigations that a President will claim executive privilege over a very small subset of materials. In that case, what the executive branch usually does and should do is to produce everything that it can and then provide a log of documents in dispute or permit a private review of the documents that have been contested.

That is not what has occurred in this case because the President has ordered the entire executive branch to defy our constitutionally inspired impeachment inquiry. Blanket defiance is what has taken place, and there is no right to do that.

Every court that has considered the matter has asserted that the President cannot assert a privilege to protect his own misconduct, to protect wrongdoing, to protect evidence that the Constitution may have been violated. The President cannot do it.

In an impeachment inquiry, the congressional need for information and its constitutional authority, of course, are at their greatest. It is imperative to investigate serious allegations of misconduct that might constitute high crimes and misdemeanors, and that is what is before you right now.

Let's look at what the Supreme Court has said in circumstances that are closest to what we face today—in U.S. v. Nixon—in the context of a grand jury subpoena. The Supreme Court found that President Nixon's

generalized assertion of privilege must yield to the demonstrated need for evidence in the pending trial, and the Federal court here in DC has recognized that Congress's need for information and for documents during an impeachment inquiry is particularly compelling.

Turning to the facts of this matter briefly, any argument that every single document requested by Congress is subject to privilege or some form of absolute immunity is absurd. There are calendar invitations, scheduling emails, photographs, correspondence with outside parties like Rudolph Giuliani. These are all important pieces of evidence for you to consider and are not the types of materials subject to any reasonable claim of executive privilege.

If you want a fair trial, it should involve documents. Given the nature of these proceedings, documents like Ambassador Bolton's notes and Lieutenant Colonel Vindman's Presidential decision memo should also be provided to you so you can seek the truth, the whole truth, and nothing but the truth.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Louisiana.

Mr. KENNEDY. Senator MORAN, my colleague from Kansas, and I send a question to the desk for counsel for the President.

The CHIEF JUSTICE. Thank you.

The question is for counsel for the President:

What did Hunter Biden do for the money that Burisma holdings paid him?

Ms. Counsel BONDI. Thank you for the question.

Mr. Chief Justice, Senators, as far as we know, Hunter Biden has said he ''attended a couple of board meetings a year.'' Here is what we do know: Hunter Biden did attend one board meeting in Monaco. Now, we also heard that when Zlochevsky—the owner of Burisma—fled the Ukraine, he was living in Monaco. So Hunter Biden did attend a board meeting in Monaco. We also know that Hunter Biden went to Norway on a fishing trip, and he took his daughter and his nephew. So he took two of Joe Biden's children with him on a fishing trip to Norway with Zlochevsky. That is as much as we know, other than his statement that he attended one or two board meetings.

Factually, that is what he said, and the timeline shows that. Again, Devon Archer was on the board with him, and then Hunter Biden remained on the board. Factually, in the record, that is as much as we know that he did involving Burisma and Zlochevsky.

The Norway trip was in June of 2015. He remained on the board until April of 2019. We also know that, prior to then, a Ukrainian court in September of 2016 canceled Zlochevsky's arrest warrant. We also know, on December 15, Vice President Biden called President Poroshenko. Then, in mid-January 2017, Burisma announced all legal proceedings against the company and Zlochevsky had been closed.

The CHIEF JUSTICE. The Democratic leader is recognized.

Mr. SCHUMER. Mr. Chief Justice, I send a question to the desk for both the counsel for the President and the House managers.

The CHIEF JUSTICE. Senator SCHUMER's question reads as follows:

The House Managers say the President demands absolute immunity. The President's counsel disputes this. Can either of you name a single witness or document to which the President has given access to the House when requested?

I believe it is time for counsel for the President to go first.

Mr. Counsel PHILBIN. Mr. Chief Justice, I thank you and Minority Leader SCHUMER for the question.

Let me try to be clear and distinguish a couple of things.

The House managers have said there was blanket defiance. That is the way they characterized it—that we are not going to give you anything and that that is all we said. It was just a blanket defiance. We are not going to respond.

What I have tried to explain several times is that that was not the President's response. There were specifically articulated responses to different requests based on different legal rationales because there were different problems with different subpoenas.

One problem is that all of the subpoenas up until October 31 were not validly authorized. So those subpoenas we said we were not going to respond to because they were not validly issued. It was not an assertion of executive privilege. It was not an assertion of absolute immunity. It wasn't anything else. It was the fact that they were not validly authorized.

They pointed out that, aha, we subpoenaed—I think they mentioned—Acting Chief of Staff Mulvaney after October 31. That is true, but we didn't rely on the fact that the subpoena was not authorized. We pointed out the doctrine of the absolute immunity of senior advisers to the President. This is not some blanket absolute immunity for the entire executive branch. It doesn't apply to all of the subpoenas they issued. As we explained in our brief, it applies to three. There were three people they subpoenaed as witnesses that, on this basis alone, the President declined to make available—Acting Chief of Staff Mulvaney, Legal Advisor to the National Security Council John Eisenberg, and Deputy National Security Adviser Kupperman, I believe, but it is in our brief. It was those three who had immunity—a doctrine asserted by every President since Nixon.

Then there was a different problem with some of the subpoenas. As to some of the other witnesses who were not senior advisers to the President, the President did not assert that they had absolute immunity. Instead, those subpoenas refused to allow those executive branch personnel to have executive branch counsel accompany them. There is an OLC opinion that has been published—it is online and cited in our trial memorandum—stating it is unconstitutional to refuse to allow executive branch personnel to have the assistance of executive branch counsel to protect privileged information during questioning, and, therefore, it is not valid to force them to appear without that counsel.

The CHIEF JUSTICE. Thank you, Counsel.

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, you know, we have received nothing as part of our impeachment inquiry.

It is worth pointing out that the House committees that subpoenaed before the House vote had standing authority under the House rules, and they were the Oversight Committee, which has the standard authority to investigate any matter at any time, as does the Foreign Affairs Committee. It has the authority, under the rules of the House, adopted January 11, to issue subpoenas. They did, and they were defied.

The idea of absolute immunity has never been upheld by any court, and it is really incomprehensible to think that somehow this concept of absolute immunity has lurked in hiding, for centuries, for Presidents to use it in this day. When you think of the two cases—the Miers case and the McGahn case—the courts completely rejected the idea of absolute immunity.

On the slide, there was a decision recently made in the McGahn case, and here is what it reads: ''Stated simply, the primary takeaway from the past 250 years of recorded American history is that Presidents are not Kings . . . '' Those are the judge's words, not mine. ''[C]ompulsory appearance by dint of a subpoena is a legal construct, not a political one, and per the Constitution, no one is above the law.''

The President is not permitted by the Constitution or by the law to assert any kind of absolute immunity. That does not exist in America, and as the judges pointed out, that would be something that a King would assert. I am not saying that, but I will say this. It is something our Founders set up our checks and balances to prevent. Nobody has absolute power in our system of government—not the Senate and House, not the President, not the judiciary. This is unprecedented and just wrong as a matter of law and as a matter of the Constitution.

Thank you.

The CHIEF JUSTICE. Thank you.

The Senator from Georgia.

Mr. PERDUE. Thank you, Mr. Chief Justice.

I send a question to the desk for both the counsel to the President and the House managers on behalf of Senator CRUZ and me.

The CHIEF JUSTICE. The question, on behalf of Senators CRUZ and PERDUE, reads as follows:

You refused to answer the question on political bias. Are the House Managers refusing

to tell the Senate whether or not the so-called whistleblower had an actual conflict of interest? There are 7 billion people on planet earth; almost all had no involvement in Biden's quid pro quo. Are the House Managers unwilling to say whether the so-called whistleblower was a FACT WITNESS who directly participated in (and could face criminal or civil liability for) Joe Biden's demanding Ukraine fire the prosecutor who was investigating Burisma? And why did you refuse to transmit to the Senate the Inspector General's transcript?

It is addressed to both sides. I think, perhaps, the House managers should go first.

Mr. Manager SCHIFF. With respect to the ICIG, the President and his allies have tried to shift the focus to the inspector general of the intelligence community—a highly respected veteran of the Justice Department—in his handling of the whistleblower's complaint. There was an effort to insinuate wrongdoing on the part of the whistleblower, and there has been an effort to insinuate wrongdoing on behalf of the inspector general.

The briefings that we had with the ICIG related to the unusual and problematic handling of this particular whistleblower's complaint within the executive branch, which diverts sharply from any prior whistleblower's complaint by anyone within the intelligence community. The Intelligence Committee is continuing its ongoing oversight to determine why and how this complaint was initially concealed from the committee in violation of the law.

ICIG Michael Atkinson continues to serve admirably and independently as he is supposed to do.

Like the Senate Intelligence Committee, the House Intelligence Committee does not release the transcripts of its engagements with inspectors general on sensitive matters because doing so risks undercutting an important mechanism for the committee to conduct oversight. The transcripts remain properly classified, in conformity with IC requirements, to protect sensitive information. The ICIG made every effort to protect the whistleblower's identity and briefed us with the expectation that it would not be made public, and we are trying to honor that expectation.

With respect to allegations of bias on the part of the whistleblower, let me just refer you to the conclusion of the inspector general's, which is, after examining the whistleblower, the whistleblower's background, any potential allegations of any bias, the whistleblower drew two conclusions: The whistleblower was credible. Meaning, given whatever issue—perceived or real—the inspector general found that whistleblower to be credible. The inspector general also found that the whistleblower's complaint was urgent and that it needed to be provided to Congress. The inspector general further found that it was withheld from Congress in violation of the law, in violation of the statute. For that, he is being attacked.

Now, counsel for the President rely on an opinion of the Office of Legal Counsel as its justification for violating the Whistleblower Protection Act and not transmitting the complaint to Congress.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. Counsel SEKULOW. Thank you, Mr. Chief Justice and Members of the Senate.

Page 5 of the inspector general's report states: ''Although the inspector general's preliminary review identified some indicia of an arguable political bias on the part of the Complainant—'' now, that is in the actual statement. He goes on to say ''—[involving] a rival political candidate, such evidence does not change his view about the credible nature of the concern,'' or what appears to be credible; but to argue that it does not include an issue of political bias, the inspector general himself says that that is, in fact—at least he said the preliminary reviews indicate some political bias.

Now, there have been reports in the media that the individual may have worked for Joe Biden when he was Vice President, that he may have had some area under his watch involving Ukraine.

I also thought it was interesting that Manager SCHIFF just talked about the importance of how they control the process as it relates to a whistleblower's reports because of the sensitive nature of those. Do we not think that the sensitive nature of information shared by the President's most senior advisers should not be subject to the same type of protections? Of course, it has to be.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from West Virginia.

Mr. MANCHIN. Mr. Chief Justice, I send a question to the desk for both the President's counsel and the House managers.

The CHIEF JUSTICE. The question from Senator MANCHIN reads as follows:

The Framers took the words ''high crimes and misdemeanors'' straight out of English law, where it had been applied to impeachments for 400 years before our Constitution was written. The Framers were well aware when they chose those words that Parliament had impeached officials for ''high crimes and misdemeanors'' that were not indictable as crimes. The House has repeatedly impeached, and the Senate has convicted, officers for ''high crimes and misdemeanors'' that were not indictable crimes. Even Mr. Dershowitz said in 1998 that an impeachable offense ''certainly doesn't have to be a crime.'' What has happened in the past 22 years to change the original intent of the Framers and the historic meaning of the term ''high crimes and misdemeanors?''

It is counsel for the President's turn.

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, Senators, what happened since 1998 is that I studied more, did more research, read more documents, and like any academic, altered my views. That is what happens. That is what professors ought to do, and I keep reading more, and I keep writing more, and I keep refining my views.

In 1998 the issue before this Senate was not whether a crime was required; it was whether the crime that Clinton was charged with was a high crime. When this impeachment began, the issue was whether a crime was required.

Actually, 2 years earlier, in a book and then an op-ed, I concluded—not on partisan grounds—on completely academic grounds that you could not impeach for abuse of power and that technical crime was not required but criminal-like behavior was required. I stand by that view.

The Framers rejected maladministration. That was the prime criteria for impeachment under British law. Remember, too, the British never impeached Prime Ministers. They only impeached middle-level and low-level people.

So the Framers didn't want to adopt the British approach. They rejected it by rejecting maladministration. And what is a metaphor or what is a synonym for maladministration? Abuse of power. And when they rejected maladministration, they rejected abuse of power.

Mr. Congressman SCHIFF asked a rhetorical question: Can a President engage in abuse of power with impunity? In my tradition we answer questions with questions, and so I would throw the question back: Can a President engage in maladministration with impunity?

That is a question you might have asked James Madison had you been at the Constitutional Convention. And he would say: No. A President can engage in that with impunity, but it is not an impeachable crime. Maladministration is not impeachable, and abuse of power is not impeachable.

The issue is not whether a crime is required. The issue is whether abuse of power is a permissible constitutional criteria, and the answer from the history is clearly, unequivocally no. If that had ever been put to the Framers, they would have rejected it with the same certainty they rejected maladministration.

The CHIEF JUSTICE. Thank you, counsel.

Mr. Manager NADLER. Mr. Chief Justice, Members of the Senate, it was always understood that the prime purpose of impeachment was to deal with abuse of power.

The first draft at the Constitutional Convention said ''treason or bribery.'' That was rejected because it wasn't inclusive enough.

Somebody put—Mason proposed maladministration. Found too vague—so they said ''high Crimes and Misdemeanors.'' That was a well-understood term in English law. It was a well-understood term in the Warren Hastings impeachment going on in England right then, and it meant, primarily, abuse of power. That is the main meaning of high crimes and misdemeanors.

Charles Pinckney said those ''who behave amiss or betray their public trust''; Edmund Randolph, ''misbehaves''; I quoted Justice Story the other day. Every impeachment in American history has been for abuse of power in one form or another.

The idea that you have to have a crime—bribery is right there in the Constitution: ''Treason, Bribery or other . . . crimes.'' Bribery was not made a statutory crime until 1837. So there couldn't have been impeachment?

The fact of the matter is that crimes and impeachment are two different things. Impeachments are not punishments for crimes. Impeachments are protections of the Republic against a President who would abuse his power, who would aggrandize power, who would threaten liberty, who would threaten the separation of powers, who would threaten the powers of the Congress, who would try to arrogate power to himself.

That is why punishment upon conviction for impeachment only goes to removal from office. You can't put him in jail, as you could for a crime. You can't fine him, as you could for a crime.

They are two different things. An impeachable offense need not be a crime, and a crime need not be an impeachable offense—two completely different tests understood that way throughout American history and by all scholars—all scholars—in our history except for Mr. Dershowitz.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from North Carolina.

Mr. BURR. Mr. Chief Justice, I send a question to the desk for counsel to the President.

The CHIEF JUSTICE. Senator BURR asks:

We have seen the House managers repeatedly play video clips of Acting Chief of Staff Mick Mulvaney's press conference, in which they claim he said there was a quid pro quo. How do you respond to the House managers' allegation that Mr. Mulvaney supported their claims in his press conference?

Mr. Counsel PURPURA. Mr. Chief Justice, Members of the Senate, Senator, thanks for the question.

We respond as Mr. Philbin did earlier today with that, which is Mr. Mulvaney has issued two statements—one after his press conference and then one Monday after the New York Times article concerning Mr. Bolton's alleged manuscript—alleged statements in his manuscript.

So I think the easiest thing is just to read them to understand what he said and to put it into context for everyone in the Chamber.

This is from—this is the day of the press conference.

Once again, the media has decided to misconstrue my comments to advance a biased and political witch hunt against President Trump. Let me be clear, there was absolutely no quid pro quo between Ukrainian military aid and any investigation into the 2016 election. The president never told me to withhold any money until the Ukrainians did anything related to the server. The only reasons we were holding the money was because of concern about lack of support from other nations and concerns over corruption. Multiple times during the more-than 30 minute briefing where I took over 25 questions, I referred to President Trump's interest in rooting out corruption in Ukraine, and ensuring taxpayer dollars were spent responsibly and appropriately. There was never any connection between the funds and the Ukrainians doing anything with the server—this was made explicitly obvious by the fact that the aid money was delivered without any action on the part of the Ukrainians regarding the server.

There was never any condition on the flow of the aid related to the matter of the DNC server.

Then, on January 27, which was Monday, there was a statement from Bob Driscoll, who is Mr. Mulvaney's attorney. Now I will read it in its full.

The latest story from the New York Times, coordinated with a book launch, has more to do with publicity than the truth. John Bolton never informed Mick Mulvaney of any concerns surrounding Bolton's purported August conversation with the President. Nor did Mr. Mulvaney ever have a conversation with the President or anyone else indicating that Ukrainian military aid was withheld in exchange for a Ukrainian investigation of Burisma, the Bidens, or the 2016 election. Furthermore, Mr. Mulvaney has no recollection of any conversation with Mr. Giuliani resembling that reportedly described in Mr. Bolton's manuscript, as it was Mr. Mulvaney's practice to excuse himself from conversations between the President and his personal counsel to preserve any attorney-client privilege.

So I wanted to read those statements in full so that everyone had the full context.

Even after Mr. Philbin referenced the statement after the press conference, the House managers again came back and said Mr. Mulvaney indicated or admitted there was a quid pro quo. That is not true.

If Mr. Mulvaney misspoke or if the words were garbled, he corrected it that day and has been very clear.

Thank you. Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Maryland.

Mr. VAN HOLLEN. Mr. Chief Justice, I send a question to the desk to the President's counsel and the House managers.

The CHIEF JUSTICE. Senator VAN HOLLEN's question is to both parties and the House managers will go first:

What did National Security Advisor John Bolton mean when he referenced ''whatever drug deal Sondland and Mulvaney are cooking up on this'' and did he ever raise that issue in any meeting with President Trump?

Mr. Manager SCHIFF. Mr. Chief Justice, Senators, when John Bolton—and this is according to Dr. Hill's testimony—brought up the drug deal, it was in the context of a July 10 meeting at the White House. There were two meetings that day. There was a meeting that Ambassador Bolton was present for, and then there was a follow-on meeting after Ambassador Bolton abruptly ended the first meeting.

In the first meeting, the Ukrainians naturally wanted to raise the topic of getting the White House meeting that President Zelensky so desperately wanted.

And after raising the issue, at some point Ambassador Sondland said: No, no, we have got a deal. They will get the meeting once they announce the investigations.

And this is the point where Ambassador Bolton stiffened. You can look up Dr. Hill's exact words. I am paraphrasing here. But this is the point where Ambassador Bolton stiffens and he ends the meeting.

Hill then goes, follows Sondland and the delegation into another part of the White House where the meeting continues between the American delegation and Ukrainian delegation, and there it is even more explicit, because in that second meeting, Sondland brings up the Bidens specifically.

Hill then goes to talk to Bolton and informs him what has taken place in the following meeting, and Bolton's response is: Go talk to the lawyers, and let them know I don't want to be part of this drug deal that Sondland and Mulvaney have got cooking up.

So at that point, that specific conversation is a reference to the quid pro quo over the White House meeting. And we know, of course, from other documents, the testimony about the quid pro quo, about the White House meeting, and all the efforts by Giuliani to make sure that the specific investigations aren't mentioned in order to make this happen.

But don't take my word for it. We can bring in John Bolton and ask him exactly what he was referring to when he described the drug deal.

Now, did Bolton describe and discuss this drug deal with the President? Well, it certainly appears from what we know about this manuscript that they did talk about the freeze on aid.

And whether John Bolton understood and at what point he understood that the drug deal was even bigger and more pernicious than he thought, that it involved not just a meeting but involved the military aid, there is one way to find out.

And I would add this in terms of Mr. Mulvaney—

The CHIEF JUSTICE. Thank you, Mr. SCHIFF.

Mr. Manager SCHIFF. Maybe I will add it later.

Mr. HOEVEN. Mr. Chief Justice.

The CHIEF JUSTICE. The President's counsel has 2½ minutes.

Mr. Counsel PHILBIN. Thank you, Mr. Chief Justice. Thank you, Senator, for the question.

The question asks about what Ambassador Bolton meant in a comment that is purported hearsay by someone else saying what he supposedly said. But what we know is that there are conflicting accounts of the July 10 meeting at the White House.

Dr. Hill says that she heard Ambassador Sondland say one thing. He denies that he said that. Dr. Hill says she

went and talked to Ambassador Bolton, and Bolton said something to her about what was said in the meeting where he wasn't there, and he was saying something about it, calling it a drug deal.

And what he meant by that—I am not going to speculate about it. It is a hearsay report of something he said about a meeting that he wasn't in, characterized in some way, and I am not going to speculate about what he meant by that.

The CHIEF JUSTICE. Thank you.

The Senator from North Dakota.

Mr. HOEVEN. Thank you, Mr. Chief Justice. I have a question for myself and also for Senator PORTMAN and Senator BOOZMAN. It is for the President's counsel, and I am sending it to the desk.

The CHIEF JUSTICE. The question from the Senators is as follows:

In September of 2019, the security assistance aid was released to Ukraine. Yet, the House managers continue to argue that President Trump conditioned the aid on an investigation of the Bidens. Did the Ukrainian President or his government ultimately meet any of the alleged requirements in order to receive the aid?

Mr. Counsel PURPURA. Mr. Chief Justice.

Thanks, Senator, for the question. The very short answer is no. I think that is fair. I think we demonstrated in our presentation on Friday and Monday that the aid was released. The aid flowed. There was a meeting at the U.N. General Assembly. There was a meeting previously scheduled in Warsaw, precisely as President Zelensky suggested, and there was never any announcement of any investigations undertaken regarding the Bidens, Burisma, the 2016 election, no statements made, and no investigations announced or begun by the Ukrainian Government.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Virginia.

Mr. WARNER. Mr. Chief Justice, I send a question to the desk for the House managers.

The CHIEF JUSTICE. Senator WARNER's question is:

Do you know about additional information related to Russia disseminating President Trump's or Rudolph Giuliani's conspiracy theories? Should the Senate have this information before we deliberate on the Articles of Impeachment?

Mr. Manager SCHIFF. Mr. Chief Justice, Senators, I think there are three categories of relevant material here.

The first, we do have access to, and that is the supplemental testimony of Jennifer Williams, and I would encourage you all to read it. I think it sheds light very specifically on the Vice President and what he may or may not know vis-a-vis this scheme. So I would encourage you to read that submission.

There was a second body of intelligence that the committees have been provided that is relevant to this trial that you should also read, and we should figure out the mechanism that would permit you to do so because it is directly relevant to the issues we are discussing and pertinent.

There is a third category of intelligence, too, which raises a very different problem, and that is that the intelligence communities are for the first time refusing to provide to the Intelligence Committee. That material has been gathered. We know that it exists. But the NSA has been advised not to provide it.

Now the Director says that this is the Director's decision, but nevertheless there is a body of intelligence that is relevant to the requests that we have made that is not being provided. That raises a very different concern than the one before this body, and that is, are now other agencies like the intelligence community that we require to speak truth to power, that we require to provide us with the best intelligence, now also withholding information at the urging of the administration? That is, I think, a deeply concerning and new phenomenon. That is a problem that we had previously with other Departments that have been part of the wholesale obstruction, but now it is rearing its ugly head with respect to the IC.

But the shorter answer to the question of, apart from Jennifer Williams, are there other relevant materials? The answer is yes, and I would encourage that you and we work together to find out how you might access them.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The majority leader.

Mr. MCCONNELL. Mr. Chief Justice, the next two questions—one from each side—would be the last before we break for dinner. I would ask that following the next two questions, the Senate stand in recess for 45 minutes.

The CHIEF JUSTICE. Thank you.

The Senator from Alabama.

Mr. SHELBY. I send a question to the desk.

The CHIEF JUSTICE. Thank you.

Senator SHELBY's question is directed to counsel for the President:

How does the noncriminal ''abuse of power'' standard advanced by the House Managers differ from ''maladministration''—an impeachment standard rejected by the Framers? Where is the line between such an ''abuse of power'' and a policy disagreement?

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, I will address this.

Senators, thank you very much for that question because that question I think hits the key to the issue that is before you today.

When the Founders rejected maladministration—and recall that it was introduced by Mason and rejected by Madison on the ground that it would turn our new Republic into a parliamentary democracy where a Prime Minister—in this case, a President—can be removed at the pleasure of the legislature.

Remember, too, that in Britain, impeachment was not used against the Prime Minister, and neither was a vote of no confidence; it was used against lower level people.

So maladministration was introduced by Mason, and Madison said no, it was just too vague and too general.

What is maladministration? If you look it up in the dictionary and you look up synonyms, the synonyms include abuse, corruption, misrule, dishonesty, misuse of office, and misbehavior.

Even Professor Nikolas Bowie, a Harvard professor who was in favor of impeachment, so this is an admission against interest by him—he is in favor of impeachment—he says abuse of power is the same as misconduct in office, and he says that his research leads him to conclude that a crime is required.

By the way, the Congressman was just completely wrong when he said I am the only scholar who supports this position. In the 19th century, which was closer in time to when the Framers wrote, Dean White of Columbia Law School wrote that ''the weight of authority''—by which he meant the weight of scholarly authority and the weight of judicial authority—this was in 1867—''the weight of authority is in favor of requiring a crime.'' Justice Curtis came to the same conclusion. Others have come to a similar conclusion.

You ask what happened between 1998 and the current time to change my mind. What happened between the 19th century and 20th century to change the minds of so many scholars? Let me tell you what happened. What happened is that the current President was impeached.

If, in fact, President Obama or President Hillary Clinton would have been impeached, the weight of current scholarship would clearly be in favor of my position because these scholars do not pass the ''shoe on the other foot'' test. These scholars are influenced by their own bias, by their own politics, and their views should be taken with that in mind. They simply do not give objective assessments of the constitutional history.

Professor Tribe suddenly had a revelation himself. At the time Clinton was impeached, he said: Oh, the law is clear. You cannot—you cannot—charge a President with a crime while he is a sitting President.

Now we have our current President. Professor Tribe got woke, and with no apparent new research, he came to the conclusion: Oh, but this President can be charged while sitting in office.

That is not the kind of scholarship that should influence your decision.

You can make your own decisions. Go back and read the debates, and you will see that I am right that the Framers rejected vague, open-ended criteria—abuse of power.

And what we had was the manager making a fundamental mistake again. She gave reasons why we have impeachment. Yes, we feared abuse of power. Yes, we feared criteria like maladministration. That was part of the reason. We feared incapacity. But none

of those made it into the criteria because the Framers had to strike a balance. Here are the reasons we need impeachment, yes. Now, here are the reasons we fear giving Congress too much power. So we strike a balance. How did they strike it? Treason, a serious crime; bribery, a serious crime; or other high crimes and misdemeanors—crimes and misdemeanors akin to treason and bribery. That is what the Framers intended. They didn't intend to give Congress a license to decide whom to impeach and whom not to impeach on partisan grounds.

I read you a list of 40 American Presidents who have been accused of abuse of power. Should every one of them have been impeached? Should every one of them have been removed from office? It is too vague a term.

Reject my argument about crime. Reject it if you choose to. Do not reject my argument that abuse of power would destroy—destroy—the impeachment criteria of the Constitution and turn it, in the words of one of the Senators at the Johnson trial, to make every Member of the Senate, every Member of Congress, be able to define it from within their own bosom.

We heard from the other side that every Senator should decide whether you need proof beyond a reasonable doubt or proof by a preponderance. Now we hear that every Senator should decide on abuse of power.

The CHIEF JUSTICE. Thank you, counsel.

Mr. Counsel DERSHOWITZ. Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Maryland.

Mr. CARDIN. Mr. Chief Justice, I have a question on behalf of Senator MARKEY and myself, and I send it to the desk.

The CHIEF JUSTICE. Thank you.

The question is as follows:

Supreme Court Justice Byron White, in a concurring opinion in Nixon v. United States (1993), acknowledged that the Senate ''has very wide discretion in specifying impeachment trial procedures,'' but stated that the Senate ''would abuse its discretion'' if it were to ''insist on a procedure that could not be deemed a trial by reasonable judges.'' If the Senate does not allow for additional evidence and the testimony of key witnesses with firsthand knowledge of President Trump's actions and intentions, would a ''reasonable judge'' conclude these proceedings constitute a constitutionally fair trial?

Mr. Manager SCHIFF. I think the answer is no. I don't know that we need to look to the words of a prior Justice to tell us that a trial without witnesses is not really a trial. It is certainly not a fair trial. If the House moves forward with impeachment and it comes before the Senate and wants to call witnesses and wants to make its case and is told ''Thou shalt not call witnesses,'' that is not a fair trial.

I think the American people understand that without reading the case law. They go to jury duty themselves every year, and they see that the first thing that takes place after a jury is sworn in is the government makes its opening statement, the defense makes theirs, and then begins the calling of witnesses.

I do want to take this opportunity to respond to Professor Dershowitz' arguments while they are fresh. You can say a lot of things about Alan Dershowitz, but you cannot say he is unprepared. He is not unprepared today. He was not unprepared 21 years ago. And to believe that he would not have read 21 years ago what Mason had to say or Madison had to say or Hamilton had to say—I am sorry, I don't buy that. I think 21 years ago he understood that maladministration was rejected but so was a provision that confined the impeachable offenses to treason and bribery alone was rejected.

I think the Alan Dershowitz from 21 years ago understood that, yes, while you can't impeach for a policy difference, you can impeach a President for abuse of power. That is what he said 21 years ago. Nothing has changed since then.

I don't think you can write off the consensus of constitutional opinion by saying they are all Never Trumpers. All the constitutional law professors—in fact, let's play a snippet from Professor Turley, who was in the House defending the President, and see what he had to say recently.

(Text of Videotape presentation:)

Professor TURLEY. Abuse of power, in my view, is clear. You can impeach a President for abuse of power and you can impeach a President for noncriminal conduct.

Mr. Manager SCHIFF. We can't argue plausibly that his position is owing to some political bias, right? Just a few weeks ago, he was in the House arguing a case for my GOP colleagues that the President shouldn't be impeached.

Now, he did say: Well, if you can actually prove these things, if you can prove—as, indeed, we have—that the President abused his power by conditioning military aid to help his reelection campaign, yes, that is an abuse of power. You can impeach with that kind of abuse of power, and that is exactly what we have here.

We are not required to leave our common sense at the door. If we are to interpret the Constitution now as saying that a President can abuse their power—and I think the professor suggested before the break that he can abuse his power in a corrupt way to help his reelection and you can't do anything about it—you can't do anything about it because if he views it as in his personal interest, that is just fine. He is allowed to do it.

None of the Founders would have accepted that kind of reasoning. In fact, the idea that the core offense that the Founders protected against—that core offense is abuse of power—is beyond the reach of Congress through impeachment would have terrified the Founders. I mean, you can imagine any number of abuses of power—a President who withholds aid from another country at war as a thank you for that adversary allowing him to build a Trump Tower in a country. OK, that may not be criminal, but are we really going to say that we are going to have to permit a President of the United States to withhold military aid as a thank you for a business proposition?

Now, counsel acknowledges that a crime is not necessary but something akin to a crime. Well, we think there is a crime here of bribery or extortion—conditioning official acts for personal favors. That is bribery. It is also what the Founders understood as extortion. And you cannot argue—even if you argue, well, under the modern definition of bribery, you have got to show such and such—you cannot plausibly argue that it is not akin to bribery. It is bribery. But it is certainly akin to bribery.

That is the import of what they would argue—that, no, the President has a constitutional right. Under article II, he can do anything he wants. He can abuse his office and do so sacrificing national security, undermining the integrity of the elections, and there is nothing Congress can do about it.

The CHIEF JUSTICE. Thank you, Mr. Manager.

RECESS

The CHIEF JUSTICE. We are in recess.

There being no objection, at 6:32 p.m., the Senate, sitting as a Court of Impeachment, recessed until 7:25 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

The CHIEF JUSTICE. The Senate will come to order.

Ms. MCSALLY. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Arizona.

Ms. MCSALLY. I send a question to the desk on behalf of myself and Senators SCOTT of Florida, HAWLEY, and HOEVEN.

The CHIEF JUSTICE. Thank you.

The question is for counsel for the President from Senator MCSALLY, Senator SCOTT from Florida, Senator HAWLEY, and Senator HOEVEN:

Chairman SCHIFF just argued that ''we think there's a crime here of bribery or extortion,'' or ''something akin to bribery.'' Do the articles of impeachment charge the President with bribery, extortion, or anything akin to it? Do they allege facts sufficient to prove either crime? If not, are the House Managers' discussion of crimes they neither alleged nor proved appropriate in this proceeding?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for that question.

No, the Articles of Impeachment do not charge the crime of bribery, extortion, or any other crime. And that is a critical point because, as the Supreme Court has explained, ''No principle of procedural due process is more clearly established than that of notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge . . . are among the constitutional rights of every accused.''

That was the Supreme Court in Cole v. Arkansas.

The Court has also explained that for over 130 years, a court cannot permit—it has been the rule that ''a court cannot permit the defendant to be tried on charges that are not made in the indictment against him.'' That is the rule in criminal law, and it is also the case for impeachments.

It is the House's responsibility to make an accusation and a specific accusation in Articles of Impeachment. The House had the opportunity to do that, and they did that. The charges that they put in the articles were abuse of power on a vague standard that they made up and obstruction of Congress. They put some discussion about other things in a House Judiciary Committee report, but they did not put that in the Articles of Impeachment.

And if this were a criminal trial in an ordinary court and Mr. SCHIFF had done what he just did on the floor here and start talking about crimes of bribery and extortion that were not in the indictment, it would have been an automatic mistrial. We would all be done now, and we could go home. Mr. SCHIFF knows that because he is a former prosecutor.

It is not permissible for the House to come here, failing to have charged—failing to have put in Articles of Impeachment any crime at all, and then to start arguing that, actually, oh, we think there is some crime involved, and, actually, we think we actually proved it, even though we provided no notice we were going to try to prove that.

It is totally impermissible. It is a fundamental violation of due process.

Scholars have pointed out those rules apply equally in cases of impeachment. Charles Black and Philip Bobbitt explained in their work ''Impeachment: A Handbook'' that is regarded as one of the authorities—collecting sources of authority on impeachments:

> The senator's role is solely one of acting on the accusations (Articles of Impeachment) voted by the House of Representatives. The Senate cannot lawfully find the president guilty of something not charged by the House, any more than a trial jury can find the defendant guilty of something not charged in the indictment.

So what Manager SCHIFF just attempted here was totally improper. It would have resulted in a mistrial in any court in this country. There is nothing that has been introduced in the facts that would satisfy the elements of the crime of extortion or bribery either.

To attempt—after making their opening, after not charging anything in the articles that is a crime, after not specifying any crime, after providing no notice that they are going to attempt to argue a crime—in the question-and-answer session, to try to change the charges that they have made against the President of the United States and to say that actually there is bribery and extortion is totally unacceptable. It is not permissible, and this body should not consider those arguments. They are not permissible bounds for argument. They are not included in the Articles of Impeachment, and they should be ignored.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from New Mexico.

Mr. UDALL. Thank you for the recognition, Mr. Chief Justice. Mr. Chief Justice, I have sent a question to the desk. I am joined in this question by Senators BLUMENTHAL, LEAHY, and WHITEHOUSE.

The CHIEF JUSTICE. Thank you. The question from Senator UDALL, joined by Senators BLUMENTHAL, LEAHY, and WHITEHOUSE, to the House managers:

> The President's counsel has argued that Hunter Biden's involvement with Burisma created a conflict of interest for his father Joe Biden. President Trump, the Trump organization, and his family, including those who serve in the White House, maintain significant business interests in foreign countries and benefit from foreign payments and investments. By the standard the President's counsel has applied to Hunter Biden, should Mr. Kushner and Ms. Trump's conflicts of interest with foreign governments also come under investigation?

Mrs. Manager DEMINGS. Mr. Chief Justice, and to the Senators, thank you so much for that question. Let me just preface what I am about to say with this statement: This has been a tough few days. It has been a trying time for each of us and for our Nation.

But I just want to say this in response to the question that has been posed. I stand before you as the mother of three sons. I am sure that many of you in this Chamber have children—sons and daughters—and grandchildren that you think the world of. My children's last name is Demings. So, when they go out to get a job, I wonder if there are people who associate my sons with their mother and their father.

I just believe, as we go through this very tough, very difficult debate about whether to impeach and remove the President of the United States, that we stay focused. The last few days we have seen many distractions. Many things have been said to take our minds off of the truth, off of why we are really here.

In my former line of work, I used to call it working with smoke and mirrors, anything that will take your attention off of what is painfully obvious, what is there in plain view.

The reason why we are here has nothing to do with anybody's children, as we have talked about. The reason why we are here is because the President of the United States, the 45th President, used the power of his office to try to shake down—I will use that term because I am familiar with it—a foreign power to interfere into this year's election. In other words, the President of the United States tried to cheat and then tried to get this foreign power, this newly elected President, to spread a false narrative that we know is untrue about interference in our election.

That is why we are here. And it really would help, I believe, the situation if the Attorney General, perhaps—the Department of Justice has been pretty silent—would issue a ruling or an opinion about any person of authority, especially the President of the United States, using or abusing that authority to invite other powers into interfering in our election.

So, Mr. Chief Justice, I will just close my remarks as I began them. Let us stay focused. This doesn't have anything to do with the President's children or the Bidens' children. This is about the President's wrongdoing.

Thank you.

The CHIEF JUSTICE. Thank you.

The Senator from Idaho.

Mr. CRAPO. Mr. Chief Justice, on behalf of myself and Senators RISCH, CRUZ, GRAHAM, BRAUN, MORAN, and BOOZMAN, I send a question to the desk for the counsel for the President.

The CHIEF JUSTICE. The question from Senator CRAPO and the other Senators for the counsel for the President:

> Does the evidence in the record show that an investigation into the Burisma-Biden matter is in the national interest of the United States and its efforts to stop corruption?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for that question. And the straightforward answer is, yes, the evidence does show that it would be in the interest of the United States. In fact, the evidence on that point is abundant.

Here is what we know: Hunter Biden was appointed to the board of an energy company in Ukraine without any apparent experience that would qualify him for that position. He was appointed shortly after his father, the Vice President, became the Obama administration's point man for policy on Ukraine.

We know that his appointment raised several red flags at the time. Chris Heinz, the stepson of the then-Secretary of State, severed his business relationship with Hunter citing Hunter's lack of judgment in joining the board of that company, Burisma, because Burisma was owned by an oligarch who was repeatedly under investigation for corruption, for money laundering, and other offenses.

Contemporaneous press reports speculated that Hunter's role with Burisma might undermine U.S. efforts led by his father then, at that time, to promote the U.S. anticorruption message in Ukraine.

The Washington Post said: ''The appointment of the Vice President's son to a Ukrainian oil board looks nepotistic at best, nefarious at worst.''

There were other articles. There was one that reported: ''The credibility of the United States was not helped by the news that . . . Hunter had been on the board of the directors of Burisma.''

There was another article saying: ''Sadly, the credibility of Mr. Biden's

message may be undermined by the association of his son with a Ukrainian natural-gas company, Burisma Holdings, which is owned by a former government official suspected of corrupt practices.''

And it went on: Reports from the Wall Street Journal said that activists here—that is, in the Ukraine—say that the U.S.'s anti-corruption message is being undermined as his son receives money from a former Ukrainian official who is being investigated for graft.

At the same time, within the Obama administration, officials raised questions. The Special Envoy for Energy Policy, Amos Hochstein, raised the matter with the Vice President. Similarly, Deputy Assistant Secretary of State Kent testified that he, too, voiced concerns with Vice President Biden's office.

Everyone who was asked in the proceedings before the House of Representatives agreed that there was at least an appearance of a conflict of interest when Mr. Biden's son was appointed to the board of this company. That included Ambassador Yovanovitch, Deputy Assistant Secretary Kent, Lieutenant Colonel Vindman, Jennifer Williams, Ambassador Sondland, Dr. Fiona Hill, and Ambassador Taylor. They all agreed there was an appearance of a conflict of interest.

Even in the transcript of the July 25 telephone call, President Zelensky himself acknowledged the connection between the Biden and Burisma incident, the firing of the prosecutor who reportedly had been looking into Burisma, when Vice President Biden openly acknowledged he leveraged a billion dollars in U.S. loan guarantees to make sure that that particular prosecutor was fired. He openly acknowledged it was an explicit quid pro quo: You don't get a billion dollars in loan guarantees unless and until that prosecutor is fired. My plane is leaving in 6 hours, he said on the tape.

And when the President, President Trump, raised this in the July 25 call, President Zelensky recognized that this related to corruption, and he said: ''The issue of the investigation of the case''—and he's referring to the case of Burisma—''is actually the issue of making sure to restore the honesty, so we will take care of that . . .'' And he later said in an interview that he recognized that President Trump had been saying to him things are corrupt in Ukraine, and he was trying to explain, no, we are going to change that; there is not going to be corruption.

So that explicit exchange in the July 25 call shows that President Zelensky recognized that that Biden-Burisma incident had an impact on corruption and anti-corruption. And so it was definitely undermining the U.S. message on anti-corruption, and it was a perfectly legitimate issue for the President to raise with President Zelensky to make clear that the United States did not condone anything that would seem to interfere with legitimate investigations and to enforce the proper anti-corruption message.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Illinois.

Mr. DURBIN. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you. Senator DURBIN's question is directed to the House managers:

> Would you please respond to the answer that was just given by the President's counsel?

Ms. Manager GARCIA of Texas. Mr. Chief Justice, Senators, the President sought Ukraine's help in investigating the Bidens only after reports suggested Vice President Biden might enter the 2020 Presidential race and would seriously challenge President Trump in the polls. President Trump had no interest in Biden's Obama-era Ukraine work in 2017 or 2018 when Biden was not running against him for President.

None of the 17 witnesses in the impeachment inquiry provided any credible evidence—no credible evidence—to support the allegation that former Vice President Biden acted inappropriately in any way in Ukraine. Instead, witnesses testified that the former Vice President was carrying out official U.S. policy in coordination with the international community when he advocated for the ouster of a corrupt Ukrainian official.

In short, the allegations are simply unfounded. President Trump's own handpicked special envoy to Ukraine, Ambassador Kurt Volker, knew they were unfounded too. He testified that he confronted the President's attorney, Mr. Giuliani, about these conspiracy theories and told him that ''it is simply not credible to me that Joe Biden would be influenced in his duties as Vice President by money or things for his son or anything like that. I've known him a long time. He's a person of integrity, and that is not credible.''

Giuliani acknowledged that he did not find one of the sources of these allegations, a former Ukrainian prosecutor, to be held credible. So even Giuliani knew the allegations were false.

Our own Justice Department confirmed that the President never spoke to the Attorney General about Ukraine or any investigation into Vice President Biden. If President Trump genuinely believed that there was a legitimate basis to request Ukraine's assistance in law enforcement investigations, there are specific formal processes that he should have followed. Specifically, he could have asked the DOJ to make an official request for assistance through the mutual legal assistance treaty.

It is worth noting, the President only cares about Hunter Biden to the extent that he is the Vice President's son and, therefore, a means through which to smear a political opponent. But President Trump specifically mentioned Vice President Biden in asking for the removal of the former prosecutor on that July 25 call. That is what he wanted, not an investigation into Hunter Biden. This is yet another reason you know that there is no basis for investigating Vice President Biden.

Can we get slide 52 up?

The timing shows clearly that despite the fact that this conduct occurred in 2015, it wasn't until Vice President Biden began consistently beating Trump in national polls in the spring of 2019 by significant margins that the President targeted Biden. He was scared of losing. The President wanted to cast a cloud over a formidable political opponent. This wasn't about any genuine concern of wrongdoing. The evidence proves that. This was solely about the President wanting to make sure that he could do whatever it took to make sure that he could win. So he froze the critical money to Ukraine to coerce Ukraine to help him attack his political opponent and secure his reelection.

The President of the United States cannot use our taxpayer dollars to pressure a foreign government to do his personal bidding. No one is above the law.

I yield back.

The CHIEF JUSTICE. The Senator from South Carolina.

Mr. SCOTT of South Carolina. Thank you, sir.

I send a question to the desk on behalf of myself, Senators CRAPO and GRAHAM, for the White House counsel.

The CHIEF JUSTICE. The question is from Senator SCOTT of South Carolina and other Senators to the White House counsel:

> House managers claim that the Biden/Burisma affair has been debunked. What agency within the government or independent investigation led to the debunking?

Mr. Counsel HERSCHMANN. Mr. Chief Justice, Members of the Senate, there is no evidence in the record about any investigation, let alone debunked, shammed, discredited, or, as Manager JEFFRIES told you tonight, phony.

The House managers haven't cited any evidence in the record because none exists. A couple of days ago, I read to you a quote and statement from Vice President Biden dealing with corruption in Ukraine. What I didn't tell you was he made those statements before the Ukrainian Parliament directly.

He spoke about the historic battle of corruption. He spoke about fighting corruption, specifically in the energy sector. He spoke about no sweetheart deals. He said oligarchs and nonoligarchs must play by the same rules:

> Corruption siphons away resources from the people. It blunts economic growth, and it affronts the human dignity.

Those were Vice President Biden's words. So the real question is this. Is corruption related to the energy sector in Ukraine run by a corrupt Ukrainian oligarch who is paying our Vice President's son and his son's business partner millions of dollars for no apparent

legitimate reason while his father was overseeing our country's relationship with Ukraine merit any public inquiry, investigation, or interest? The answer is yes.

Simply saying it didn't happen is ridiculous. With all due respect to the House managers and citing to our children, the message to our children, especially when you oversee a corruption in trying to root it out in another country, is to make sure your children aren't benefiting from it. That is what should be happening—not to sit there and say that it is OK.

The House managers don't deny that there is a legitimate reason to do an investigation. They just say it was debunked; it is a sham; it is delegitimate; but they don't tell you when it happened.

We all remember the email that Chris Heinz sent. Keep this in mind. He is the stepson of the then-Secretary of State, John Kerry. He sends an official email to the State Department, to the chief of staff to John Kerry, and special assistant. The subject is Ukraine. There is no question when you look at that email that it is a warning shot to say: I don't know what they are doing, but we are not invested in it.

He is taking a giant step back.

Think about the words, and remember the video that we saw about Hunter Biden. What did he say? I am not going to ''open my kimono''—I am not going to ''open my kimono''—when he was asked how much money he was making. In one month—in one month alone—Hunter Biden and his partner made almost as much as every Senator and Congressman—just in one month alone—what you earn in a year. And you don't think that merits inquiry?

Does anyone here think, when they say it is a debunked investigation that didn't happen, that we wouldn't remember if there was testimony of Hunter Biden, Joe Biden, Secretary of State John Kerry, his stepson, their business partner, his chief of staff, and special assistant? How can you tell the American people it doesn't merit inquiry when our Vice President's son is supposedly doing this for corporate transparency in Ukraine? He is going to oversee the legal department of a Ukrainian company; he is going to help them.

And if you look at his statement that I read to you beforehand, there is another part of it from October 2019. If you want to know whether he thought it dealt with outside of Ukraine in just Burisma—he said he was ''advising Burisma on its corporate reform initiatives, an important aspect of fueling Burisma's international growth and diversity.''

Listen to this statement by Hunter Biden's attorney: ''Vibrant energy production, particularly natural gas, was central to Ukraine's independence and to stemming the tide of Vladimir Putin's attack on the principles of a democratic Europe.''

Do you think he understood, when he was getting the millions of dollars, what his father was doing? The only problem is, that statement didn't come out until October of 2019. Only when the news stories started to break, only when the House managers raised these issues, did people start to talk about it.

Tell us where we saw Joe Biden, Hunter Biden, and John Kerry testify about it. Tell us where you did it when you did your impeachment hearings. I don't remember seeing that testimony. I don't remember seeing the bank records. We put the bank records in front of you. The people are entitled to know exactly what was going on.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Oregon.

Mr. MERKLEY. Thank you, Mr. Chief Justice.

On behalf of the Senator from New Mexico, MARTIN HEINRICH, and myself, I have a question to send to the desk.

The CHIEF JUSTICE. The question from Senator MERKLEY and other Senators is for counsel to the President:

Please clarify your previous answer about the Bolton manuscript. When, exactly, did the first person on the President's defense team first learn of the allegations in the manuscript? Secondly, Mr. Bolton's lawyer publicly disputes that any information in the manuscript could reasonably be considered classified. Was the determination to block its publication on the basis that it contains classified information made solely by career officials, or were political appointees in the White House Counsel's office, or elsewhere in the White House, involved?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, to address your question specifically, the allegation that came out in the New York Times article about a conversation that is allegedly reported in the manuscript between the President and Ambassador Bolton and officials, lawyers in the White House Counsel's Office learned about that allegation for the first time on Sunday afternoon when the White House was contacted by the New York Times.

In terms of the classification review, it is conducted at the NSC. The White House Counsel's Office is not involved in classification review, determining what is classified or not classified.

I can't state the specifics. My understanding is that it is conducted by career officials at the NSC, but it is handled by the NSC. I am not in a position to give you full information on that. My understanding is, it is being done by career officials. But it is not being done by lawyers in the White House Counsel's Office.

I hope that answers your question, Senator.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Alaska.

Mr. SULLIVAN. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senator LANKFORD for the President's counsel.

The CHIEF JUSTICE. Thank you.

The question from Senators SULLIVAN and LANKFORD to the counsel for the President:

There has been conflicting testimony about how long the Senate might be tied up in obtaining additional evidence. At the beginning of this trial, the minority leader offered 11 amendments to obtain additional evidence in the form of documents and depositions from several federal agencies. If the Senate had adopted all 11 of these amendments, how long do you think this impeachment trial would take?

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate, it would take a long time. It would take a long time just to get through those motions.

But there have been 17 witnesses. We are talking about, now, additional witnesses that the managers have put forward and that Democratic Leader SCHUMER has discussed. He has discussed four witnesses in particular, as if this body—if it were to grant witnesses—would say: Yes, you get those four witnesses. And the White House and the President's counsel get what?

Mr. SCHUMER. Whatever you want.

Mr. Counsel SEKULOW. Whatever I want. That is what you said, Mr. SCHUMER.

Whatever I want? Here's what I want. I want ADAM SCHIFF. I want Hunter Biden. I want Joe Biden. I want the whistleblower. I want to also understand there may be additional people within the House Intelligence Committee that have had conversations with that whistleblower—that I get anybody we want. By the way, if we get anybody we want, we will be here for a very long time.

The fact of the matter is, we are not here to argue witnesses tonight, which, obviously, is an undercurrent. But to say that this is not going to extend this proceeding—months, because understand something else: Despite the, you know, executive privilege and other nonsense, I suspect Manager SCHIFF—smart guy—he is going to say: Wait a minute, I have some speech and debate privileges that may be applicable to this.

I am not saying that they are. But they may raise it. It would be legitimate to raise it. So this is a process that we would be—this would be the first of many weeks.

I think we have to be clear. They put this forward in an aggressive and fast-paced way, and now they are saying ''Now we need witnesses''—after 31 or 32 times you said you proved every aspect of your case. That is what you said.

He just said he did. Well, then, I don't think we need any witnesses.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. Chief Justice, I send a question to the desk and refer it to the House managers.

The CHIEF JUSTICE. The question is from Senator MENENDEZ to the House managers:

President Trump has maintained that he withheld U.S. security assistance to Ukraine because he was concerned about corruption.

Yet, his purported concern about corruption did not prevent his Administration from sending congressionally-appropriated assistance to Ukraine more than 45 times between January 2017 and June 2019, totaling more than $1.5 billion. So why did the President suddenly become concerned about corruption in early 2019?

Mr. Manager CROW. Mr. Chief Justice, Senator, thank you for the question.

He became concerned about corruption supposedly in early 2019 because Vice President Biden was running for election for the Presidency. That is what the overwhelming amount of the evidence shows because there is no other legitimate reason, as your question points out.

First, the publicly released records of President Trump's April 21 and 25 calls to President Zelensky never mentioned the word ''corruption'' despite the fact that the talking points for these calls prepared by his own staff listed ''corruption.''

Second, in May 2019, the State Department certified to Congress Ukraine had ''taken substantial actions for the purposes of decreasing corruption'' and met the anti-corruption benchmarks this very body established when it appropriated $250 million of those funds.

Third, by the time of the July 25 call, President Zelensky had already established his anti-corruption bona fides, having introduced a number of reform bills in Ukraine.

Fourth, on July 26, the day after his call with President Zelensky, President Trump spoke to Ambassador Sondland, who was in Ukraine. The one question the President asked Ambassador Sondland was not about corruption but about whether or not President Zelensky was going to do the investigations.

Fifth, the released aid—as your question points out, Senator, the President released the aid in 2017 and in 2018, and he released it in 2019 only after having gotten caught. In the words of Lieutenant Colonel Vindman and other witnesses, the conditions on the ground had not changed.

So we are hearing a lot tonight about the concerns about corruption, Burisma, Russia, but the facts still matter here. We are here for one reason and one reason only: The President of the United States withheld foreign aid that he was happy to give in the 2 prior years; that suddenly, we are to believe, something changed, the conditions on the ground changed, and he had an epiphany about corruption within a week of Vice President Biden announcing his candidacy. It doesn't make any sense.

One other thing I will say with regard to the aid is, this assertion that President Trump has been the strongest supporter of Ukraine—I talked about this earlier. Let's just assume that to be the case, and if it is the case, as the President's counsel has contended over and over again, then there is, of course, no reason to withhold the aid, because nothing has changed.

This leads us inevitably to only one conclusion, and that is that the President of the United States used taxpayer dollars—the American people's money—to withhold aid from an ally at war to benefit his political campaign.

Do not be distracted by Russian propaganda, by conspiracy theories, by people asking you to look in other directions. That is what this is about. That will not change. The facts will continue to come out. Whether this body subpoenas them or not, the facts will come out. The question now is, Will they come out in time, and will you be the ones asking for them when you are going to be making the decision in a couple of days to sit in judgment?

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Wisconsin.

Mr. JOHNSON. Mr. Chief Justice, I send a question to the desk for the President's counsel.

The CHIEF JUSTICE. Thank you.

The question is from Senator JOHNSON for the President's counsel:

If House Managers were certain it would take months to litigate a subpoena for John Bolton, why shouldn't the Senate assume lengthy litigation and make the same decision as the House made—reject a subpoena for John Bolton?

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate, I think that is precisely the point. And the fact is that if, in fact, we are to go down that road of a witness or witnesses that had national—in the case of Ambassador Bolton, high-ranking NSA—this is an individual that is giving the President advice at the highest level. The Supreme Court has been very consistent on that. That is where privileges are at their highest level. The presumed privilege, actually, is what the Supreme Court has said.

And in a situation like this, I think we are going down a road—if the Senate goes down this road—of a lengthy proceeding with a lot more witnesses. And then I want to ask this question and just plant it as a thought: Is that going to be the new norm for impeachment? You put an impeachment together in a couple of weeks. We don't like what the President did. We get it through in a 2-day proceeding in front of the Judiciary Committee. We wrap it up and we send it up here and say: Now go figure it out. Because that is what this is really becoming. That is what this actually is.

So I think, if we are looking at the institutional interests that are at stake here, this is a very dangerous precedent because what they are doing—what they are saying is basically: We have enough to prove our case—that is what Manager Schiff says—but not really, so we really need more evidence—not because we need it; because we want it. But we didn't want it bad enough when we were in the House, so we didn't get it. So now you issue the subpoena, and then let's duke it out in court and see what happens.

It sounds like, to me, that this is—they are acting like this is some municipal traffic court proceeding. I remind everybody that we are talking about—under their Articles of Impeachment, they are requesting the removal of the President of the United States. So, you know, they are already saying in the media that their ongoing investigation here—they are going to continue to investigate. So are we going to be doing this every 3 weeks, every month except in the summer? There is an election months away. The people should have a right to vote. My colleague Pat Cipollone, the White House counsel, said that.

So when I look at all of this, whether it is the late need of witnesses after you prove your case, whether privileges apply or not apply—Senator SCHUMER said: We get anybody we want—we would be here for a very, very long time, and that is not good for the United States.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Democratic leader is recognized.

Mr. SCHUMER. I have a question for the desk.

The CHIEF JUSTICE. Senator SCHUMER's question is for the House managers:

Would you please respond to the answer that was just given by the President's counsel?

Mr. Manager SCHIFF. I think we can all see what is going on here, and that is, if the House wants to call witnesses, if you want to hear from a single witness, if you want to hear what John Bolton has to say, we are going to make this endless. We, the President's lawyers, are going to make this endless. We promise you, we are going to want ADAM SCHIFF to testify. We want Joe Biden to testify. Hunter Biden. We are going to want the whistleblower. We are going to want everyone in the world. If you dare, if you have the unmitigated temerity to want witnesses in a trial, we will make you pay for it with endless delay. The Senate will never be able to go back to its business.

That is their argument.

How dare the House assume there will be witnesses in a trial. Shouldn't the House have known when they undertook its investigation that the Senate was never going to allow witnesses; that this would be the first impeachment trial in the history of the Republic with no witnesses?

So Mr. Sekulow wants me to testify. I would like Mr. Sekulow to testify about his contact with Mr. Parnas or Mr. Cipollone about the efforts to implement the President's fight on all subpoenas. I would like to ask questions about—well, I would like to ask questions of the President and put him under oath. But we are not here to indulge in fantasy or distraction; we are here to talk about people with pertinent and probative evidence.

And you know something? I trust the man behind me, sitting way up, whom I can't see right now, but I trust him to

make decisions about whether a witnesses is material or not, whether it is appropriate to out a whistleblower or not, whether to—whether a particular passage in a document is privileged or not. It is not going to take months of litigation, although that is what the President's counsel is threatening.

They are doing the same thing to the Senate they did to the House, which is, you try to investigate the President, you try to try the President, we will tie you and your entire Chamber up in knots for weeks and months. And you know something? They will if you let them.

You don't have to let them. You can subpoena John Bolton. You can allow the Chief Justice to make a determination in camera whether something is relevant, whether it deals with Ukraine or Venezuela, whether it is privileged or it isn't, whether the privilege is being misapplied to hide criminality or wrongdoing. We don't have to go up and down the courts; we have a perfectly good Chief Justice sitting right behind me who can make these decisions in real time.

So don't be thrown off by this claim: Oh, if you even think about it, we are going to make you pay with delays like you have never seen. We are going to call witnesses that will turn this into a circus.

It shouldn't be a circus. It should be a fair trial. You can't have a fair trial without witnesses.

I think when I was asked that question before, I answered in the affirmative—in the negative. You can't have a fair trial without witnesses, and you shouldn't presume that when a House impeaches, the Senate trials from now on will be witness-free, will be evidence-free. That is not what the Founders intended. If it was, they would have made you the court of appeals. But they didn't. They made you the triers of fact. They expected you to hear from witnesses. They expected you to evaluate their credibility.

Don't take my word for it about John Bolton. Look, I am no fan of John Bolton's—although I like him a little more than I used to—but you should hear from him. You should want to. Don't take General Kelly's view for it. Make up your own mind whether you are to believe him or Mick Mulvaney. Will you believe John Bolton or the President? Make up your own mind.

Yes, we proved our case, counsel. We proved it overwhelmingly. But you chose to contest the fact that the President withheld military aid to coerce an ally. You chose to contest it. You chose to make John Bolton's testimony relevant, pertinent. If you had stipulated the President did as he is charged, then you might make the argument that you are making here, but you haven't. You contested it. And now you want to say: But the Senate shall not hear from this witness. That is not a fair trial. It is not even the appearance of fairness. You can't have a fair trial without basic fairness.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Louisiana.

Mr. CASSIDY. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senator RISCH, both to the White House counsel and the House managers.

The CHIEF JUSTICE. Thank you.

Question from Senator CASSIDY and Senator RISCH to both parties, beginning with the President's counsel first:

We saw a video of Mr. NADLER saying: ''There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by the other. Such an impeachment will lack legitimacy, will produce divisiveness and bitterness in our politics for years to come, and will call into question the very legitimacy of our political institutions.'' Given the well-known dislike of some House Democrats for President Trump and the stated desire of some to impeach before the President was inaugurated, and the strictly partisan vote in favor of impeachment, do the current proceedings typify that which Mr. NADLER warned against 20 years ago?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for the question. The simple answer is yes. These are exactly the sort of proceedings that Manager NADLER warned against 20 years ago. It was a purely partisan impeachment. And it has been clear that at least some factions on the other side of the aisle—the Democratic side of the aisle—have been intent on finding some way to impeach the President from the day he was sworn in and even before the day he was sworn in, and that is dangerous for our country.

To allow partisan venom and enmity like that to take hold and become the norm for driving impeachments is exactly what the Framers warned against. It is in Federalist No. 65. Hamilton warned against it. He warned against persecution by an intemperate and designing majority in the House of Representatives, and that is exactly what the Framers did not want impeachment to turn into. Yet that is clearly what it is turning into here.

Both Manager NADLER and Democratic Leader SCHUMER, in the video that we saw, were prescient in forewarning that, if we start to go down this road, one thing that seems to be sure in Washington is that what goes around comes around. If it is done once to one party, it will happen again to the other party and then to the other party once the Office of the President changes hands. Then we will be in a cycle. It will get worse and worse, and it will be more and more, and every President will be impeached. That is not what the Framers intended, and this body shouldn't allow it to happen here.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mr. Manager JEFFRIES. The evidence is overwhelming that President Trump pressured a foreign government to target an American citizen for personal and political gain as part of President Trump's corrupt effort to cheat and solicit foreign interference in the 2020 election.

There is a remedy for that type of stunning abuse of power, and that remedy is in the Constitution. That remedy is impeachment and the consideration of removal, which is what this distinguished body is doing right now. That is not partisan. That is not the Democratic Party's playbook. That is not the Republican Party's playbook. That is the playbook in a democratic republic given to us in a precious fashion by the Framers of the Constitution.

The impeachment in this instance, of course, and the consideration of removal is necessary because President Trump's conduct strikes at the very heart of our free and fair elections. As North Carolinian delegate William Davie noted at the Constitutional Convention, ''If he be not impeachable whilst in office, he will spare no efforts or means whatsoever to get himself re-elected.''

The Framers of the Constitution understood that perhaps this remedy would one day be necessary. That is why we are here right now.

The American people should decide an American election, not the Ukrainians, not the Russians, not the Chinese—the American people. That is why this President was impeached. That is why it is appropriate for the Democrats and the Republicans—both sides of the aisle—not as partisans but as Americans, to hold this President accountable for his stunning abuse of power.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Vermont.

Mr. SANDERS. Mr. Chief Justice, I send a question to the desk for the House managers.

The CHIEF JUSTICE. Thank you.

Senator SANDERS asks the House managers:

Republican lawyers have stated—on several occasions—that two people, Senator JOHNSON and Ambassador Sondland, were told directly by President Trump that there was no quid pro quo in terms of holding back Ukraine aid in exchange for an investigation into the Bidens. Given the media has documented President Trump's thousands of lies while in office—more than 16,200 as of January 20—why should we be expected to believe that anything President Trump says has credibility?

Mr. Manager SCHIFF. Well, I am not quite sure where to begin with that question except to say that if every defendant in a trial could be exonerated just by denying the crime, there would be no trial. It doesn't work that way.

I think it is telling that when Ambassador Sondland spoke with President Trump, the first words out of his mouth, according to Sondland, were ''no quid pro quo.'' That is the kind of thing you blurt out when you have been caught in the act and say: It was not me. I didn't do it.

Even then, the President couldn't help himself because the other half of that conversation was ''no quid pro

quo'' but that Zelensky needs to go to the mic, and what is more, he should want to—no quid pro quo but quid pro quo.

This reminds me of something that came up earlier. Why would the President—when he is on the call of July 25 and knows that there are other people listening, why on Earth would the President engage in this kind of shakedown with others being within earshot? You know, I think this question comes up in almost every criminal trial. Why would the defendant do that?

Sometimes it is very hard to fathom, and sometimes it is just that people make mistakes. In this case, I think the President truly believes that he is above the law. He truly believes that he is above the law. It doesn't matter who is listening. It doesn't matter who is listening. If it is good for him—I guess this is a version of Dershowitz' argument—if it is good for him, it is good for the state because he is the state. If it helps his reelection, it is good for America, and whatever means he needs to effectuate his election, whether it is withholding military aid or what have you, as long as it helps him get elected, well, it is good for America because he is the state. This is why I think he is so irate when people come forward and blow the whistle, not just the whistleblower but people like John Bolton or General Kelly.

You might ask the question: Why do so many people who leave this administration walk away from this President with such conviction that he is undermining our security that you cannot believe what he says? Think about this: The President's now former Chief of Staff, General Kelly, doesn't believe the President of the United States; he believes John Bolton.

I mean, can everybody be disgruntled? Can it all be a matter of bias? I think we know the answer. I think we know the answer. I mean, how do you believe a President to whom the Washington Post has documented so many false statements? The short answer is, you can't.

I remember, early in his Presidency, many of us talked about how once as President, you lose your credibility, and once as President, your country or your friends or allies around the world cannot rely on your word and just how disruptive and dangerous it is to the country. So we can't accept the denial. It is a false denial.

Indeed, if you look at the Wall Street Journal article that Senator JOHNSON was interviewed in, when he had that conversation with Sondland and had that sinking feeling because he didn't want those two things tied together, everyone understood they were tied together. It was as simple as two plus two equals four.

So can you rely on a false exculpatory? You can't with this President any more than you can with any other accused and probably, given the President's track record, a lot less than other accused. But at the end of the day, we have people with firsthand knowledge who don't have to rely on his false exculpatory. You don't have to rely on Mick Mulvaney's recanting what you all saw so graphically on TV. How does somebody say, without a doubt, this was a factor, that this is why he did it?

By the way, Alan Dershowitz lost a criminal case in which he argued that if a corrupt motive is only part of the motive, you can't convict. And the court said: Oh, yes, you can. If a corrupt motive is any part of it, you can convict. So he has lost that argument before, and he makes this argument again before this court. It shouldn't be any more availing here than it was there.

At the end of the day, though, there is no more interested party here than the President of the United States, and I think we have seen he will say whatever he believes suits his interest. Let's instead rely on the evidence and rely on others, and one is just a subpoena away.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Colorado.

Mr. GARDNER. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you. The question from Senator GARDNER is for counsel to the President:

> Arguments have been made that any assertion of protection from disclosure is indicative of guilt and that the House's assertion of Impeachment power cannot be questioned by the Executive. Is that interpretation of the House's Impeachment power consistent with the Constitution, and what protects the Executive from the House abusing the Impeachment power in the future?

Mr. Counsel PHILBIN. Mr. Chief Justice and Senators, thank you for that question.

The House managers' assertion that any effort to assert a privilege or assert a legal immunity to decline disclosing information is somehow a sign of guilt is not the law. It is, actually, fundamentally contrary to the law.

Legal privileges exist for a reason. We allow people to assert their rights. It is a basic part of the American justice system. Asserting your rights—asserting privileges and immunities to process rights even if it means limiting the information that might be turned over to a tribunal—is not and cannot be treated as evidence of guilt.

To the second part of the question, as to the House managers' theory that the power of impeachment means that the President can't resist any subpoena that they issue pursuant to the power of impeachment, it is not consistent with the Constitution. The Constitution gives the House the sole power of impeachment, which means only that the House is the only place—the only part of the government—that has that power. It doesn't say that they have a paramount power of impeachment that destroys all other constitutional rights or privileges or immunities. It doesn't mean that executive privilege suddenly disappears.

The House managers a number of times have cited Nixon v. United States or—I might get it reversed now—United States v. Nixon. It was the case involving the President in 1974. The Supreme Court determined that, in that particular case, after a balancing of interests, assertions of executive privilege would have to give way, but it did not say that there was just an absolute, blanket rule that anytime there is an allegation of wrongdoing or that there is an impeachment going on in the background, that executive privilege just disappears. That is not the rule from that case. In fact, even in that context, the Court pointed out that there may be an absolute immunity or privilege in the field of foreign relations and national security, which is the field we are dealing with here.

The Framers recognized that there could be partisan and illegitimate impeachments. They recognized that the House could impeach for the wrong reasons, but they didn't leave the executive branch totally defenseless to that. Executive privilege and immunities rooted in executive privilege, such as the absolute immunity for senior advisers, still applies even in the context of an impeachment. That is part of the checks and balances in the Constitution. They don't fall away simply because the House says: Ah, now we want to proceed on impeachment.

It is necessary for the proper functioning of the government and the separation of powers for the executive branch to retain that ability to protect confidentiality interests, to protect the prerogatives of the Office of the Presidency. For any President to fail to assert those rights and to protect them would do lasting damage to the Office of the Presidency for the future.

I think that is a critical point to understand in that there is a danger in the legal theory that the House managers are proposing here because it would do lasting damage to the separation of powers—to the structure of our government—to have the idea be that, as soon as the House flips the switch that they want to start proceeding on impeachment, the executive has no defenses and has to open every file and display everything. That is not the way the Framers had it in mind, because the executive branch has to have still its defenses for its sphere of authority under the Constitution. That is part of the checks and balances.

And before I sit down, I would just like to close by going back to the Senator who asked the question about the review process in the Bolton book. I believe I was clear about this, but I just want to make 100 percent sure to the extent the Senator was asking for an assurance that only career officials in the NSC review it for classification review.

I can't make that assurance because it is an NSC process, and I am not sure. At the levels of the process, there might be other reviews. So I didn't intend to give and I don't want it to be

understood as giving that assurance to you.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Massachusetts.

Ms. WARREN. Mr. Chief Justice, I send a question to the desk for House managers and counsel to the President.

The CHIEF JUSTICE. Thank you. The House managers will respond first to this question from Senator WARREN.

If Ukrainian President Zelensky called President Trump and offered dirt on President Trump's political rivals in exchange for President Trump handing over hundreds of millions in military aid, that would clearly be bribery and an impeachable offense. So why would it be more acceptable—and somehow not impeachable—for the reverse, that is, for President Trump to propose the same corrupt bargain?

Mr. Manager NADLER. Bribery is obviously an impeachable offense. Bribery is contained within the accusation at the House level of abuse of power.

We explained in the Judiciary Committee report that the practice of impeachment in the United States has tended to envelope charges of bribery within the broader standard of other high crimes and misdemeanors. That is the historical standard.

The elements of bribery are clearly established here. The abuse of power is clearly established. When the President of the United States offers something—extorts a foreign power to get a benefit for himself, withholds military aid in order to get that foreign power to do something that would help him politically—that is clearly bribery, it is clearly an abuse of power, and there is no question about it.

Now, by the way, the question was raised earlier as to what the proper standard of proof is. People pointed out the Constitution doesn't say. But the highest standard of proof is beyond a reasonable doubt, and these facts have been proven not beyond a reasonable doubt, beyond any doubt.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for the question.

I think what this hypothetical shows, what Manager NADLER shows, is this is an effort to try to smuggle into Articles of Impeachment that do not mention any crime the idea that there is some crime alleged here. There is not, and I went through that earlier.

The Articles of Impeachment specify a theory of the charge here that is abuse of power. They do not allege the elements of bribery or extortion. They don't mention bribery or extortion.

If the House managers had wanted to bring those charges, they had to put them in the Articles of Impeachment, just the way a prosecutor, if he wants to put someone on trial for bribery, he has got to put it in the indictment.

If you don't, and you come to trial and then try to start arguing that, ''well, actually, we think there is bribery going on here,'' that is impermissible. It is prosecutorial misconduct.

And so a hypothetical that is contrary to what the facts were here, to try to suggest that maybe there is some element of bribery, that is all beside the point. We have specific facts. We have evidence that has been presented in the record. We have a specific Article of Impeachment. It doesn't say bribery. It doesn't say extortion. And there is no way to get that into this case at this point because the House managers had the opportunity to frame their case. They had every opportunity to frame it any way they wanted because they controlled the whole process. They controlled all the evidence that went in. They controlled all the evidence with the witnesses that were called, and they could frame it any way they wanted, and they didn't put in any crime. There is no crime asserted here. It is not part of the Articles of Impeachment, and it can't be considered now.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Kansas.

Mr. MORAN. Thank you, Mr. Chief Justice. I submit to the desk a question on my behalf and on behalf of Senator CORNYN.

The CHIEF JUSTICE. The question from Senator MORAN and Senator CORNYN is for counsel to the President:

Is it true that in these proceedings that the Chief Justice can rule on the issue of productions of exhibits and the testimony of witnesses over the objection of either the managers or the President's counsel? Would a determination by the Chief Justice be subject to judicial review?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for the question, and let me answer it this way—lay out my understanding of the process.

If we were going to start talking about subpoenaing witnesses, subpoenaing documents, having things come into evidence that way, the first question would be subpoenas would have to be issued to the witnesses or for the documents, and if those subpoenas were resisted on the grounds of some privilege or immunity, then that would have to be sorted out because if the President asserted, for example, the immunity of a senior adviser to the President or an executive privilege over certain documents, then the Senate would have to determine whether it was going to fight that assertion and how—through some accommodation process and negotiation—or if the Senate were going to go to court to litigate that. And that whole process would have to play out. That would be the first stage, and that would have to be gone through anytime the President resisted the subpoena on the witnesses or documents. That would take a while.

That is what the House managers decided not to do in the House of Representatives.

Then, once there had been everything resolved on a subpoena, or something like that, it sounds like the question asks further, in terms of questions here in the trial, of admissibility of particular evidence. It is my understanding, then, that the Presiding Officer—the Chief Justice—could make an initial determination if there were objections to admission of evidence, but that all such determinations can be challenged by the Members of the Senate and would be subject to a vote.

So it would not be—I think there were some suggestions earlier—that we don't need any other courts; we don't need anything involved with anyone else because the Chief Justice is here.

That is not correct. On the subpoenas at the front end, that is not going to be something that is determined just—with all respect, sir—just by the Chief Justice. That is something that would have to be sorted out at the courts or by negotiation with the executive branch.

Then, once we are here on specific evidentiary objections, if we have a witness and there are objections during depositions that have to be resolved, or by a witness on the stand, if there are objections to particular documents—authentication or things like that—the Chief Justice could make an initial ruling, but every one of those rulings could be appealed to this body to vote by a majority vote on whether the evidence would come in or not.

And you might have to consider rules, whether you are going to have the Federal Rules of Evidence apply or some modified rules of evidence, and all of that would have to be sorted out.

I don't think that we would get to the stage, then, of any determinations in evidence here being in any way appealed out to the courts, but that would be a process that this body would have to decide what would be admissible in evidence in the trial.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Minnesota.

Ms. SMITH. Thank you. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you.

The question from Senator SMITH is to the House managers:

The President has stated multiple times in public that his actions were perfect—yet he refuses to allow Bolton, Mulvaney, and others to testify under oath. If the President's actions are so perfect, why wouldn't he allow fact witnesses to testify under oath about what he has said publicly?

Mr. Manager SCHIFF. Well, the short answer is, if the President were so confident that this was a perfect call and that those around him would agree that there was nothing nefarious going on, he would want witnesses to come and testify. But, of course, he doesn't. He doesn't want his former National Security Advisor to testify. He doesn't want his current Chief of Staff to testify. He doesn't want those that were heading OMB to testify. He doesn't want you to hear from any of them.

Now, I think that is pretty indicative that he knows what they have to say

and he doesn't want you to hear what they have to say. He doesn't want you to see any of the myriad of documents that he has been withholding from this body as he did from the House.

But I also want to address the last question, if I could. Is the Chief Justice empowered under the Senate rules to adjudicate questions of witnesses and privilege? And the answer is yes.

Can the Chief Justice make those determinations quickly? The answer is yes.

Is the Senate empowered to overturn the Chief Justice? Under certain circumstances.

Is the vote 50 or is the vote two-thirds? That would be something that we would have to discuss with the Parliamentarian and with the Chief Justice.

But the Chief Justice has the power to do it, and, what is more, under the Senate rules, you want expedited process? We are here to tell you: We will agree with the Chief Justice's ruling on witnesses, on their materiality, on the application or nonapplication of privilege. We agree to be bound by the Chief Justice. We will not seek to litigate an adverse ruling, and we will not seek to appeal an adverse ruling.

Will the President's counsel do the same? And, if not, just as the President doesn't trust what these witnesses have to say, the President's lawyers don't want to rely on what the Chief Justice's rulings might be.

Now, why is that? They, as we, understand the Chief Justice will be fair. I am not for a moment suggesting they don't think the Chief Justice is fair—quite the contrary. They are afraid he will be fair. They are afraid he will make a fair ruling. That should tell you something about the weakness of their position.

They don't want a fair trial with witnesses. They don't want a fair Justice to adjudicate these questions. They just want to suggest to you that they will delay and delay and delay.

I think it was Thomas Paine who said: Those who would enjoy the blessings of liberty must undergo the rigors of defending it—the fatigues of defending it.

Is it too much fatigue for us to hear from a witness? Is that how little effort we are willing to put into the blessings of freedom and liberty? Is that how little fatigue we are willing to incur?

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Nebraska.

Mr. SASSE. I send a question to the desk on behalf of myself, TIM SCOTT, and MARCO RUBIO.

The CHIEF JUSTICE. Thank you.

The question from Senator SASSE and also on behalf of Senator SCOTT from South Carolina and Mr. RUBIO, directed to counsel for the President:

Mr. Cipollone pointed Senators to the ''golden rule of impeachment.'' In elaborating on that rule, can you offer your views on the limiting principles—both in the nature of offenses that should be considered and in the proximity to elections—for future impeachments, toward the end of safeguarding public trust by putting guardrails on both parties?

Mr. Counsel CIPOLLONE. Thank you, Mr. Chief Justice, Members of the Senate.

In elaborating on the golden rule of impeachment, I would say principle No. 1, if we listen to what the Democratic Senators said in the past and the House managers and other Members of the House, that should guide us, and that principle is—and it is a principle based on precedent that you shouldn't have a partisan impeachment.

If you have a partisan impeachment, that, in and of itself, is a dangerous thing because that means that there is not the bipartisan support that even the Speaker of the House has said you would need to even begin to consider the impeachment of a President because it is the overturning of an election. They don't dispute that it is the overturning of an election.

In addition, it is the removal of this President from an election that is occurring just months from now, which I think is another important principle.

I think the other important fact here is that there is actually bipartisan opposition to this impeachment. Democrats voted against it in the House of Representatives. That is an important principle.

The other principle would be that if you have a process that is unprecedented—if you have a process that is unprecedented—that should be something that ought to be considered. Always in the past there has been a vote authorizing an impeachment. Why? Because they say the House is the sole authority of impeachment—but that is the House, not the Speaker of the House at a press conference. That is another important consideration.

Another important consideration is all of the historical precedents related to rights given to a President in a process have been violated. We haven't seen anything like that in our history. The President's counsel wasn't able to attend, wasn't allowed to cross-examine witnesses, wasn't allowed to call witnesses; and they are coming here and basically asking you, No. 1, to call witnesses that they had refused to pursue, but, more importantly, I think what they are saying is, do what they did—only call witnesses that they want. Don't allow the President to call witnesses that the President wants. That doesn't work. That is not due process.

The other important principle there is, we hear a lot about fairness, but in the American justice system fairness is about fairness to the accused. Fairness is about fairness to the accused. So how can you suggest that what we are going to do is, we are going to have a trial. We will get the witnesses and prosecutors that we want, even though you got to call no witnesses in the House. You got to cross-examine none of the witnesses that we called, and have we got a deal for you: Let's call another witness, but you call none. That is another principle.

And I think the reality is that what Professor Dershowitz said is true. I think, when you are thinking about impeachment, as much as we can as human beings, we should think about it in terms of a President is a President regardless of party, and how would we treat a President of our own party in similar circumstances? I think that is the golden rule of impeachment.

I don't think we have to guess here because I think we have lots of statements from Democrats when we were here last time around and principles. As I said, I agree with them, I agree with those principles. I just ask that they be applied here.

That is my answer. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Illinois.

Mr. DURBIN. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you.

Senator DURBIN asks the House managers:

If President Trump were to actually invoke executive privilege in this proceeding, wouldn't he be required to identify the specific documents or communications containing sensitive material that he seeks to protect?

Mr. Manager NADLER. As stated before, executive privilege is a very limited privilege that must be claimed by the President. He has at no time claimed executive privilege. Rather, he has claimed absolute immunity, a nonexistent concept that every court that has ever considered it has rejected. Instead, he has simply said: We will oppose all subpoenas. We will deny to the House all information—all information. Whatever they want, they can't have. This is way beyond the pale, and it is intended to be because he fears the facts.

The facts are, he tried to extort a foreign government through withholding military aid that this Congress had voted—he broke the law to withhold the aid that this Congress had mandated be sent to them in order to pressure them into announcing an investigation of his political opponent. Those are the facts. Those facts are proven beyond any doubt at all.

So what do we have? We have a diversion after diversion, diversions about what Hunter Biden may have done in Ukraine—irrelevant, whatever he did in Ukraine. The question is, Did the President withhold foreign military aid in order to extort a foreign government into helping him rig an American election?

We hear diversions about privilege. We hear questions about witnesses. We know he is telling the Senators don't allow witnesses. Why? Because he knows what the witnesses will say.

We hear arguments from his counsel: Well, we have taken enough time with witnesses. The House shouldn't have voted if it didn't have proof positive. We had proof positive. We voted it. It

doesn't mean we shouldn't have more proof if it comes forward.

There is no argument that Mr. Bolton shouldn't be permitted to testify. He is not going to waste our time. He has told us he will testify with a subpoena.

So all of these questions are diversions. They are diversions by a President who is desperate because we have proven the facts that he threatened a foreign government—not just threatened them, did, in fact, withhold mandated American military aid from them in order to blackmail them into serving his political purposes, for private political purposes. We know that. Everything else is a diversion.

No witnesses—because maybe those witnesses will testify in a way he doesn't want.

Privilege—when you are dealing with accusations of wrongdoing against the President, the Supreme Court told us in the Nixon case, privilege yields.

So all of these arguments are diversions. Keep your eye on the facts. The facts we have proven. And let's see if the additional witnesses—and as Mr. SCHIFF said, witnesses should not be a threat, not to the Senate, not to anybody else. And it is not going to waste too much time because the Chief Justice can rule on relevant questions—questions of relevancy or privilege or anything else.

But the facts are the facts. The President is a danger to the United States. He has tried to rig the next election. He has abused his power and he must be brought to heel and the country must be saved from his continuing efforts to rig our elections.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Utah.

Mr. ROMNEY. Mr. Chief Justice, I submit a question to the desk.

The CHIEF JUSTICE. Thank you.

The question from Senator ROMNEY is for the counsel for the President:

On what specific date did President Trump first order the hold on security assistance to Ukraine and did he explain the reason at that time?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senator, thank you for the question.

I don't think that there is evidence in the record of a specific date—the specific date—but there is testimony in the record that individuals at OMB and elsewhere were aware of the hold as of July 3, and there is evidence in the record of the President's rationale from even earlier than that time. There is an email from June 24 that has been publicly released. It was publicly released in response to a FOIA request that is from one DOD staffer up to the Chief of Staff of DOD—excuse me, sorry—from the Chief of Staff down to a staffer from DOD relating on the subject line: POTUS follow-up. Follow-up from a meeting with POTUS, President of the United States, explaining questions that had been asked about Ukraine assistance, which were specifically: What was the funding used for, i.e., did it go to U.S. firms; who funded it; and what do other NATO members spend to support Ukraine?

So from the very beginning, in June, the President had expressed his concern about burden-sharing, what do other NATO members do. Similarly, in the July 25 transcript, there was—the President asked President Zelensky specifically. He raised the issue of burden-sharing. Again, showing that was his concern. In addition, there was, I believe, Mr. Morrison, who testified that he was aware from OMB that the President had expressed concerns about corruption and that there was a review process to consider corruption in Ukraine.

So the evidence in the record shows that the President raised concerns at least as of June 24; that people were aware of the hold as of July 3; the President's concerns about burden-sharing were in the email on June 24; they were reflected in the July 25 call. Similarly, there is testimony from later in the summer that the President had raised concerns about corruption in Ukraine. So that is the evidence in the record that reflects the President's concerns. Thank you.

The CHIEF JUSTICE. Thank you, counsel. The Senator from Nevada.

Ms. CORTEZ MASTO. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. The question from Senator CORTEZ MASTO is to the House managers:

The President's counsel has claimed that the President was unfairly excluded from House impeachment processes. Can you describe the due process President Trump received during House proceedings compared to previous presidents? Did President Trump take advantage of any opportunities to have his counsel participate?

Mrs. Manager DEMINGS. Mr. Chief Justice, and to Senators, thank you so much for that question.

Let me make this plain. The President is not the victim here. The victim in this case is the American people. President Trump was invited to attend and participate in all of the Judiciary Committee hearings. He could have had Mr. Cipollone, Mr. Sekulow, or any of the other attorneys who have joined at the counsel table participate throughout the Judiciary Committee proceedings in the House. They could have attended all of the Judiciary hearings, and imagine this—cross-examine witnesses, raise objections, present evidence favorable to the President, if they had any to present, and they could have requested to have President Trump's own witnesses called.

But President Trump refused to participate. He wrote to the House, and I quote: ''If you are going to impeach me, do it now, fast, so we can have a fair trial in the Senate. . . .''

In every event, President Trump was asked, and indeed legally required, to provide evidence during the Intelligence Committee investigation, but he refused, as we have already said over and over again, to produce any documents or allow witnesses to testify. We thank God for the 17 public servants who came forward in spite of the President's efforts to obstruct.

In addition, Republican Members in Congress had an equal opportunity to ask questions during the depositions and the hearings in both the Intelligence and the Judiciary Committee hearings. Republican Members called three witnesses during the Intelligence Committee's hearings and an additional witness during the Judiciary Committee hearing.

Of course, a House impeachment inquiry is not a full-blown criminal trial. We do know that. But this is a trial, and, obviously, the President is being afforded every due process right during these proceedings.

The CHIEF JUSTICE. Thank you.

Ms. MURKOWSKI. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Alaska.

Ms. MURKOWSKI. I send a question to the desk.

The CHIEF JUSTICE. Thank you. Senator MURKOWSKI's question is for the House managers:

In early October, Mr. Cipollone sent the letter saying none of the subpoenas issued by the House were appropriately authorized and thus invalid. When the House passed their resolution authorizing the impeachment inquiry, and granting subpoena power to the Intelligence and Judiciary Committees, the body could have addressed the deficiency the White House pointed out and proclaimed those subpoenas as valid exercises of the impeachment inquiry. Alternatively, the House could have reissued the subpoenas after the resolution was adopted. Please explain why neither of those actions took place.

Ms. Manager GARCIA of Texas. Mr. Chief Justice, Senator, I appreciate your question.

These arguments, plain and simple, are a red herring. The House's impeachment inquiry and its subpoenas were fully authorized by the Constitution, House rules, and precedent. It is for the House, not the President, to decide how to conduct an impeachment inquiry.

The House's autonomy to structure its own proceedings for impeachment inquiry is rooted in two provisions of article I of the Constitution. First, article I vests the House with the ''sole Power of Impeachment.'' It contains no requirements—no requirements—as to how the House must carry out that responsibility.

Second, article I states that the House is empowered to determine the rules of proceedings. Taken together, these provisions give the House sole discretion to determine the manner in which they investigate, deliberate, and vote for grounds of impeachment.

In exercising its responsibility to investigate and consider the impeachment of a President of the United States, the House is constitutionally entitled to relevant information from the executive branch concerning the President's misconduct. The Framers, the courts, and past Presidents have

recognized and honored Congress's right to information in an impeachment investigation and is critical as a safeguard to our system of divided powers; otherwise, a President could hide his own wrongdoing to prevent Congress from discovering impeachable misconduct, effectively nullifying—nullifying—Congress's impeachment power.

That is precisely what President Trump has tried to achieve here. The President has asserted the power to determine for himself which congressional subpoenas he will respond to and those that he will not. The President's counsel would have you believe that each time anyone in the executive branch gets a subpoena, it is open season for creative lawyers in the White House and DOJ to start inventing theories about House rules and parliamentary precedent.

This is not how the separation of powers works, and to accept that argument would wholly undermine the House's and Senate's ability to provide oversight of the executive branch. It would also make impeachment a nullity.

The President argues that there was no resolution fully authorizing the impeachment inquiry, but, again, there is no requirement for the full House to take a vote before conducting an impeachment inquiry. President Trump and his lawyers invented this theory.

As Chief Judge Howell of the U.S. District Court in DC has stated, and this is a direct quote: ''This [claim] has no textual support in the U.S. Constitution [or] the governing rules of the House.''

The Constitution itself says nothing about how the House may exercise its sole power of impeachment, but instead confirms the House shall have the sole power to determine the rules of its own proceedings. This conclusion is also confirmed by precedent. Numerous judges have been subjected to impeachment investigations in the House and even impeached by the House and convicted by the Senate without any previous vote of the House authorizing an impeachment inquiry.

As recently as the 114th Congress, the Judiciary Committee considered impeaching the IRS Commissioner following a referral from another committee and absent a full House vote. The Judiciary Committee began an investigation into President Nixon's misconduct for 4 months before approval of a full House resolution.

The House rules also do not preclude committees from inquiring into the potential grounds for impeachment. Instead, those rules vest the relevant committees of the House with robust investigatory powers, including the power to issue subpoenas.

Each of the three committees that conducted the initial investigation of President Trump's conduct in Ukraine—Intelligence, Oversight, and Foreign Affairs—indisputably had oversight jurisdiction over these matters. The President's counsel has pointed to the Nixon impeachment with a full House.

The CHIEF JUSTICE. Thank you very much. Thank you.

Ms. Manager GARCIA of Texas. Thank you. I yield back.

The CHIEF JUSTICE. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. Chief Justice, I send a question to the desk, and because my question references an earlier question, I have attached that earlier question as a reference to provide it to the Office of the Parliamentarian in case it should be of interest.

The CHIEF JUSTICE. Thank you. The question from Senator WHITEHOUSE is to counsel for the President:

White House counsel refused to answer a direct question from Senator COLLINS and Senator MURKOWSKI, saying he could only cite to the record. Five minutes afterward White House counsel read recent newspaper stories to the Senate from outside the House record. Could you please give an accurate and truthful answer to the Senators' question: Did the President ever mention the Bidens in connection to corruption in Ukraine before Vice President Biden announced his candidacy in April 2019? What did the President say, to whom, and when?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senator, thank you for the question.

I don't think that I refused to answer the question at all. We had been advised by the House managers that they were going to object if we attempted to introduce anything that was not either in the public domain—so things that are in newspaper articles, things like that that are out there we could refer to—or things that were in the record. And so I can't—I am not in a position to go back into things that the President might have said in private, and there has been no discovery into that. It is not part of this inquiry, so I can't go telling now about things that the President might have said to Cabinet Members. I am not in a position to say that. I can tell you what is in the public, and I can tell you what is in the record. I answered the question fully to the best of my ability based on what is in the public domain and what is in the record.

I would like to take a moment to also respond to the last question that was posed by Senator MURKOWSKI with respect to the vote on authorizing the issuance of subpoenas because there has always been a vote from the full House to authorize any impeachment inquiry into a Presidential impeachment. It was that way in the Johnson impeachment. It was that way in the Nixon impeachment.

There have been references to the fact that the House Judiciary Committee began some investigatory work before the House actually voted on the resolution—I think it was Resolution 803—to authorize the impeachment inquiry. But all that work was simply gathering things that were in the public domain or that had been already gathered by other committees, and there was no compulsory process issue. And in fact, Chairman Rodino of the House Judiciary Committee specifically determined, when there was a move to have the House Judiciary Committee issue subpoenas after the Saturday Night Massacre, that the committee lacked the authority to issue any compulsory process until there had been a vote by the full House authorizing the committee to do that.

This is not some esoteric special rule about impeachments. As I have tried to explain, this is just a fundamental rule under the Constitution about how authority had been given by ''we the people'' to Chambers of the legislature, either the House or the Senate. Once it is given there to the House, how does it get to a committee? It can only get down to a committee if it is delegated by the House. That can only happen if the House votes. There is no standing rule that gives the House Judiciary Committee authority to use the power of impeachment as opposed to the authority to legislate. There is no rule that gives you the power to use the authority of impeachment to issue compulsory process.

Rule 10 doesn't mention impeachment at all. The word doesn't appear in it. That is why it has always been the understanding that there must be a vote from the House to authorize the House Judiciary Committee or in this case—it was contrary to all prior practice—it was given to Manager SCHIFF's committee and other committees the authority to use the power of impeachment to issue subpoenas.

It was very clear to the House of Representatives that the position of the executive branch was that all of the subpoenas issued before H. Res. 660 were invalid on their face, and Senator MURKOWSKI's question is exactly correct: There was no effort in H. Res. 660 either to attempt to retroactively authorize those subpoenas or to say that those subpoenas—to retroactively authorize those subpoenas or then to reissue them under H. Res. 660, so the subpoenas remained invalid. There was no response from the House to that. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mr. HAWLEY. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Missouri.

Mr. HAWLEY. Mr. Chief Justice, I send to the desk a question for both counsel for the President and the House managers on my own behalf and on behalf of Senator CRUZ, Senator DAINES, and Senator BRAUN.

The CHIEF JUSTICE. Thank you. The President's counsel will respond first to the question from Senator HAWLEY and the other Senators:

When he took office, Viktor Shokin, Ukraine's Prosecutor General, vowed to investigate Burisma. Before Vice President Joe Biden pressed Ukrainian officials on corruption, including pushing for the removal of Shokin, did the White House Counsel's Office or the Office of the Vice President legal counsel issue ethics advice approving Mr.

Biden's involvement in matters involving corruption in Ukraine or Shokin, despite the presence of Hunter Biden on the board of Burisma, a company widely considered to be corrupt? Did Vice President Biden ever ask Hunter Biden to step down from the board of Burisma?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for the question.

We are not aware of any evidence that then-Vice President Biden sought any ethics opinion. We are aware that both Amos Hochstein and Deputy Assistant Secretary of State Kent testified—excuse me—Amos Hochstein is in the public domain. Deputy Assistant Secretary of State Kent testified in the proceedings before the House that they each raised the issue with Vice President Biden of the potential appearance of a conflict of interest with his son Hunter being on the board of Burisma. Deputy Assistant Secretary Kent testified that although he raised that issue with the Vice President's office, the response was that the Vice President's Office—the Vice President was busy dealing then with the illness of his other son, and there was no action taken. So from what we know, there wasn't any effort to seek an ethics opinion. We are not aware of an ethics opinion having been issued. Although the issue was flagged for the Vice President's Office, we are not aware that Vice President Biden asked his son to step down or that any other action was taken. And I believe that Vice President Biden has said that he never discussed—he said publicly he never discussed his son's overseas business dealings with him.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mrs. Manager DEMINGS. Mr. Chief Justice and Senator, I appreciate your question. The facts about Vice President Biden's conduct are clear and do not change. Let's go through them.

First, every witness asked about this topic testified that Mr. Shokin was widely considered to be a corrupt and ineffective prosecutor who did not prosecute corruption. Shokin was so corrupt that the entire free world—the United States, the European Union, the International Monetary Fund—pressed for his office to be cleaned up. So I would caution you to be skeptical of anything that Mr. Shokin claims.

Second, witnesses, including our own anti-corruption advocate, Ambassador Yovanovitch—remember that very dedicated anti-corruption Ambassador—testified that Shokin's removal made it more likely that investigations of corrupt European—Ukrainian companies would move forward. Let me repeat that. The dismissal of Shokin made it more likely that Burisma would be investigated.

Third, Burisma was not under scrutiny at the time Joe Biden called for Shokin's ouster, according to the National Anti-Corruption Bureau of Ukraine, an organization several witnesses testified is effective at fighting corruption.

Shokin's office investigated Burisma, but the probe focused on a period before Hunter Biden joined the company. But, again, another investigation was warranted. Dismissing Shokin would have made that more likely.

The CHIEF JUSTICE. Thank you.

Mr. KING. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Maine.

Mr. KING. Mr. Chief Justice, I have a question for the House managers I will send to the desk.

The CHIEF JUSTICE. Thank you.

Senator KING's question for the House managers reads as follows:

Mr. Rudolph Giuliani was in Ukraine exclusively on a political errand—by his own admission—so doesn't the President's mention of Giuliani by name in the July 25th call conclusively establish the real purpose of the call?

Mr. Manager NADLER. Mr. Chief Justice, Members of the Senate, Mr. Giuliani played a key role in President Trump's monthslong scheme to pressure Ukraine to announce political investigations to benefit the President's reelection campaign. Remarkably, the President's defense is wrapping themselves in Rudy Giuliani's involvement in Ukraine while trying to minimize his role.

There is overwhelming evidence—not just testimony but texts, call records, and other corroborating documents—establishing Mr. Giuliani's key role in executing the President's pressure campaign beginning in early spring 2019 with a smear campaign against Ambassador Yovanovitch and then throughout the summer. Everyone knew that Rudy Giuliani was the gatekeeper to the President on Ukraine.

On May 10, Mr. Giuliani canceled the trip to Ukraine, during which he planned to dig up dirt on former Vice President Biden and on a discredited conspiracy theory after his plans became public. He admitted: ''We're not meddling in an election, we're meddling in an investigation.'' He explained that someone can say it is improper, and this isn't—''[Someone] could say it's improper. And this isn't foreign policy—I'm asking them to do an investigation that they're already doing and that other people are telling them to stop.'' He was talking about the investigations of the Bidens.

During a May 10 appearance on FOX News, Giuliani also said that he canceled his trip because there are enemies of Trump's around President Zelensky.

Mr. Giuliani's associate Lev Parnas produced a set of documents to the House Intelligence Committee that included a letter—and I believe we have slide 50 here—Mr. Giuliani sent to President-elect Zelensky during this time period. In the letter dated May 10, Mr. Giuliani informed Zelensky that he represented President Trump as a private citizen, not as President of the United States.

He also requested a meeting with President Zelensky on May 13 and 14, along with Victoria Toensing, in his ''capacity as personal counsel to President Trump and with his knowledge and consent.''

Mr. Giuliani confirmed President Trump's knowledge of actions with regard to Ukraine, stating: ''He . . . knows what I'm doing, sure, as his lawyer.'' He added:

My only client is the president of the United States. He's the one I have an obligation to report to, tell him what happened.

President Trump repeatedly instructed senior American and Ukrainian officials to talk to Rudy, demonstrating that Mr. Giuliani was a key player in the corrupt scheme.

In the May 23 Oval Office meeting to discuss Ukraine policy, President Trump directed his handpicked three amigos to talk to Rudy. In response, Ambassador Sondland testified: ''Secretary Perry, Ambassador Volker and I worked with Mr. Rudy Giuliani on Ukraine matters at the express direction of the President of the United States.''

After two explosive White House meetings on July 10 in which Ambassador Sondland explicitly conveyed the President's demand for political investigations to Ukrainian officials, top Ukrainian aide Andriy Yermak texted Ambassador Volker: ''I feel that the key for many things is Rudy.''

And what was Rudy asking? Investigations of two American citizens—not corruption in general; investigations. In fact, he wasn't even asking for an investigation; he was just asking for an announcement of an investigation so that American citizens—the Bidens—could be smeared.

On the July 25 call with President Zelensky, President Trump mentioned Rudy Giuliani by name no less than four times and informed Zelensky that Rudy very much knows what is happening. He told President Zelensky: ''Mr. Giuliani is a highly respected man.'' He added, ''Rudy very much knows what is happening.''

In August, Mr. Giuliani met with a top Ukrainian aide and conveyed that Ukraine must issue a public statement announcing investigations.

Ambassador Sondland and Volker then worked closely with Giuliani and the Ukrainians to ensure that the planned statement would meet Mr. Giuliani's demands. Specifically, Mr. Giuliani insisted that the statement include specific references to Burisma and the 2016 election and Biden.

Throughout this process, Sondland stated that he knew that they needed the approval of Giuliani for the press statement and that they knew Giuliani represented the interest of the President.

Rudy Giuliani admitted on live television to pressuring Ukraine to look into Joe Biden—not into corruption; into Joe Biden.

In September 2019, Chris Cuomo asked Giuliani: ''So you did ask Ukraine to look into Joe Biden?''

In response, Giuliani insisted: ''Of course I did.''

Mr. Giuliani insisted that Ukraine look at an American citizen on behalf of his client, President Trump.

Finally, during the pendency of the impeachment proceedings, Mr. Giuliani has not ceased in his efforts to dig up dirt to benefit the President.

In December, he again traveled to Ukraine to meet with Ukrainian officials, which he described as a secret assignment, and after which, the President reportedly called him immediately upon landing and asked, ''What did you get?'' to which Mr. Giuliani responded, ''More than you can imagine.''

It is worth noting that in Ms. Raskin's presentation about Giuliani——

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. Manager NADLER.—he repeated requests for investigations into Biden, not into corruption.

Mr. RUBIO. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Florida.

Mr. RUBIO. I send a question to the desk on behalf of myself, Senators SASSE, BRAUN, RISCH, MCSALLY, ROBERTS, and HOEVEN.

The CHIEF JUSTICE. Thank you.

The question from Senator RUBIO and the other Senators is for counsel for the President:

How would the Framers view removing a President without an overwhelming consensus of the American people and on the basis of Articles of Impeachment supported by one political party and opposed by the other?

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, thank you.

Senators, Alexander Hamilton addressed that issue very directly. He said the greatest danger of impeachment is if it turns on the votes of one party being greater than the votes of another party in either House. So I think they would be appalled to see an impeachment going forward in violation of the Schumer rule and the rules of other Congressmen that were good enough for us during the Clinton impeachment but seemed to have changed dramatically in the current situation.

The criteria that have been set out are so lawless, they basically paraphrase Congresswoman MAXINE WATERS, who said: There is no law. Anything the House wants to do to impeach is impeachable. That is what is happening today. That places the House of Representatives above the law.

We have heard much about, no one is above the law. The House of Representatives is not above the law. They may not use the MAXINE WATERS—Gerald Ford made the same point, but it was about the impeachment of a judge. Judges are different; there are many of them. There is only one President.

But to use that criteria, that it is whatever the House says it is, whatever the Senate says it is, turns those bodies into lawless bodies, in violation of the intent of the Framers.

Manager SCHIFF confused my argument when he talked about intent and motive.

You have said I am not a constitutional lawyer, but you admitted I am a criminal lawyer. And I have taught criminal law for 50 years at Harvard.

There is an enormous distinction between intent and motive. If somebody shoots somebody, the intent is that when you pull the trigger, you know a bullet will leave and will hit somebody and may kill them. That is the intent to kill them. Motive can be revenge. It could be money. It almost never is taken into consideration, except in extreme cases. There are cases where motive counts.

But let's consider a hypothetical growing out of a situation that we have discussed. Let's assume that President Obama had been told by his advisers that it really is important to send lethal weapons to the Ukraine, but then he gets a call from his pollster and his political adviser, who says: We know it is in the national interest to send lethal weapons to the Ukraine, but we are telling you that the leftwing of your party is really going to give you a hard time if you start selling lethal weapons and getting into a lethal war, potentially, with Russia. Would anybody here suggest that was impeachable? Or let's assume President Obama said: I promised to bomb Syria if they had chemical weapons, but I am now told by my pollsters that bombing Syria would hurt my electoral chances. Certainly not impeachable at all.

So let me apply that to the current situation. As you know, I said previously there are three levels of possible motive.

One is, the motive is pure—only interest is in the way of what is good for the country. In the real world, that rarely happens.

The other one is, the motive is completely corrupt—I want money, kickback.

But then there is the third one that is so complicated and that is often misunderstood. When you have a mixed motive—a motive in which you think you are doing good for the country, but you are also doing good for yourself. You are doing good for me; you are doing good for thee. You are doing good, and you altogether put it in a bundle in which you are satisfied that you are doing absolutely the right thing. Let me give you a perfect example of that from the case.

The argument has been made that the President of the United States only became interested in corruption when he learned that Joe Biden was running for President. Let's assume hypothetically that the President was in his second term, and he said to himself: You know, Joe Biden is running for President. I really should now get concerned about whether his son is corrupt because he is not only a candidate—he is not running against me; I am finished with my term—but he could be the President of the United States. And if he is the President of the United States and he has a corrupt son, the fact that he has announced his candidacy is a very good reason for upping the interest in his son. If he wasn't running for President, he is a has-been. He is the former Vice President of the United States. OK, big deal. But if he is running for President, that is an enormous big deal.

So the difference—the House managers would make—is whether the President is in his first term or in his second term, whether he is running for reelection or not running for reelection. I think they would have to concede that, if he was not running for reelection, this would not be a cross motive but would be a mixed motive but leaning on the side of national interest. If he is running for reelection, suddenly that turns it into an impeachable offense.

The CHIEF JUSTICE. Thank you. Thank you, counsel.

The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. Chief Justice, I submit a question to the desk directed to the House managers.

The CHIEF JUSTICE. Thank you. The question is from Senator KLOBUCHAR to the House managers:

I was on the trial committee for the last impeachment trial in the Senate, which involved Judge Thomas Porteous, who was ultimately removed. During that time, the Senate trial committee heard from 26 witnesses, 17 of whom had not previously testified in the House. What possible reason could there be for allowing 26 witnesses in a judicial impeachment trial and hearing none for a President's trial?

Mr. Manager SCHIFF. Mr. Chief Justice, Senator, as you know, I am quite familiar with the Porteous impeachment. Someone asked me the last time I tried a case. The answer is probably 30 years ago except for the impeachment of Thomas Porteous, when I last spent some quality time with you.

There is no difference in terms of the Constitution. I would say that the need for witnesses in the impeachment trial of a President of the United States is a far more compelling circumstance than the impeachment of a judge. Now, you might say, well, in the impeachment of a judge, how is it possible that the time of the Senate could be occupied by calling witnesses; that, as precious as your time is, we would occupy your time calling dozens of witnesses, but in the impeachment of a President, it is not worth the time; it is too much of an imposition.

Again, I would argue that the imperative of calling judges and having a fair trial when we are adjudicating the guilt of a President of the United States is paramount.

Now, we have always argued that the trial should be fair to the President and the American people. And, yes, it is a big deal to impeach a President and remove that President from office. It is also a big deal if you leave in place a President when the House has proven that President has committed impeachable misconduct and is likely to

continue committing it—because there is no doubt, I think, from the record that not only did the President solicit Russian interference in 2016 but solicited Ukraine's interference in the upcoming election, solicited China's interference—as my colleague just said, had Rudy Giuliani, his personal agent, in Ukraine doing the same kind of thing just last month.

And Senator, in response to that question, isn't it dispositive that Giuliani, the personal agent of the President, is running this Biden operation rather than any department of government? Isn't that really dispositive of whether this was policy or politics? And I think the answer is yes.

Giuliani has made it abundantly clear: I am not here doing foreign policy. That is the President's own lawyer. I am not here to do foreign policy.

Now, Professor Dershowitz just made a rather astounding argument that an investigation of Joe Biden that is unwarranted, unmerited, suddenly becomes warranted if he runs for President. Now, he posited that in the President's second term, but it doesn't matter whether he is in his first term or his second term. An illegitimate investigation of Joe Biden doesn't somehow become legitimate because he is running for President unless you view your interests as synonymous with the Nation's interests.

I think it is the most profound conflict for a President of one party, whether he is running for reelection or not, to suggest that all of a sudden an investigation of a leading candidate in the opposite party is justified because now they are running for President. I mean, you really have to step aside from what is going on to imagine that anyone could make that argument; that running for office, running for President now, means that you are a more justified target of investigation than when you weren't. That cannot be. That cannot be. But that is essentially what is being argued here.

To get to conclude, Senator, the case for witnesses in a Presidential impeachment where either, on the one side, you remove a President or, on the other side, you leave in place a President who may pose a continuing risk to the country is far more compelling to take the time to hear from witnesses than a corrupt Louisiana judge who only impacts those who come before his court.

All of us come before the court of the American people.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Montana.

Mr. DAINES. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senator LANKFORD and Senator HAWLEY.

The CHIEF JUSTICE. Thank you. The question from Senators DAINES, LANKFORD, and HAWLEY is for counsel for the President:

Over the past 244 years, eight judges have been removed from office by the U.S. Senate but never a President. The eight judges have been removed for bribery, perjury, tax evasion, waging war against the United States, and other unlawful actions. How do the current impeachment articles differ from previous convictions and removals by the Senate?

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, there is an enormous difference between impeaching and removing a judge, even a justice, and impeaching and removing a President. No judge, not even a Chief Justice, is the judicial branch. You are the head of the judicial branch, but there is a judicial branch.

The President is the executive branch. He is irreplaceable. There isn't always a Vice President. Remember, we had a period of time when there was no Vice President. We needed a constitutional amendment.

So there is no comparison between impeaching a judge and impeaching a President. Moreover, there is a textual difference. The Constitution provides that judges serve during good behavior. That is the Congressman SCHIFF standard, and it is a great standard. We wish everybody served only during good behavior. But the Constitution doesn't say that the President shall serve during good behavior. The big difference is the President runs every 4 years, and the public gets to judge his good behavior. Judges don't run, and so there is only one judge of the good behavior; namely, the impeachment process.

So to make a comparison is to make the same mistake that when people compare the British system to the American system. We have heard a lot of argument that we adopted the British system by adopting five words: ''other high crimes and misdemeanors.'' Yes, those words may have been borrowed from Great Britain, but the whole concept of impeachment was not. First of all, impeachment no longer exists in Great Britain; but when it did, it only operated for low-level and middle-level people. All the impeachment trials that have been cited involve this guy in India, this guy in the commerce, this guy here, this guy there—utterly replaceable people.

In the British system, on the other hand, you can get rid of the head of state—the head of government, rather, by a simple vote of no confidence. That is what the Framers rejected. The Framers rejected that for a President. And so the notion that we borrowed the British system has it exactly backward. We rejected the British system.

We did not want a President to serve at the pleasure of the legislature. We wanted the President to serve at the pleasure of the voters.

Judges don't serve at the pleasure of the voters, so there needs to be different criteria and broader criteria, and those criteria have been used in practice. For the most part, judges have been impeached for criminal and removed for criminal behavior.

But take an example that was given. If a judge is completely drunk and incapacitated and cannot do his job, it is easy to imagine how a judge might have to be removed for that.

But the President—there is an amendment to the Constitution, the 25th Amendment, specifically provided because there was a gap in the Constitution. And, please, Members of the Senate, it is important to understand, your role is not to fill gaps that the Framers deliberately left open.

Good arguments have been made: Why is it important to make sure people don't abuse their power, people don't commit maladministration? But the Framers left open, left those gaps. Your job is not to fill in the gaps. Your job is to apply the Constitution as the Framers wrote it, and that doesn't include abuse of power and obstruction of Congress.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Delaware.

Mr. COONS. Mr. Chief Justice, I send a question to the desk for the President's counsel.

The CHIEF JUSTICE. Thank you. The question from Senator COONS to the President's counsel is this:

The President's brief states, ''Congress has forbidden foreigners' involvement in American elections.'' However, in June 2019, President Trump said if Russia or China offered information on his opponent, ''[t]here's nothing wrong with listening,'' and he might not alert the FBI because: ''Give me a break. Life doesn't work that way.'' Does President Trump agree with your statement that foreigners' involvement in American elections is illegal?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senator, thank you for the question.

I think Congress has specified specific ways in which foreigners cannot be involved in elections. Foreigners can't vote in elections. There are restrictions on foreign contributions to campaigns—things like that.

When the whistleblower originally made a complaint about this July 25 call, and that was reviewed by the inspector general for the intelligence community, he framed that whistleblower's complaint and wrote a cover letter framing it in terms of those laws. And he said that there might be an issue here related to soliciting a foreign contribution to a campaign, a thing of value, foreign campaign interference.

That was specifically reviewed by the Department of Justice. The Department of Justice concluded that there was no such violation here. So that is not something that is involved in this case.

President Trump's interview with ABC that you cited does not involve something that is a foreign campaign contribution, something that is addressed by the law as passed by Congress. He was referring to the possibility that information could come from a source, and I think he pointed out in that interview that he might contact the FBI, he might listen to something.

But mere information is not something that would violate the campaign finance laws. And if there is credible information, credible information of wrongdoing by someone who is running for a public office—it is not campaign interference for credible information about wrongdoing to be brought to light, if it is credible information.

So I think that the idea that any information that happens to come from overseas is necessarily campaign interference is a mistake. That is a non sequitur. Information that is credible, that potentially shows wrongdoing by someone who happens to be running for office, if it is credible information, is relevant information for the voters to know about, for people to be able to decide on who is the best candidate for an office.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The majority leader is recognized.

RECESS

Mr. MCCONNELL. Mr. Chief Justice, I recommend we take a break until 10 p.m. and then finish up for the evening.

There being no objection, at 9:44 p.m., the Senate, sitting as a Court of Impeachment, recessed until 10:07 p.m.; whereupon the Senate reassembled when called to order by the CHIEF JUSTICE.

Mr. MCCONNELL. Mr. Chief Justice, my understanding is we will finish up at about 11 p.m.

The CHIEF JUSTICE. Thank you.

The Senator from Georgia.

Mrs. LOEFFLER. I send a letter to the desk on behalf of myself, Senators BLACKBURN, HYDE-SMITH, COTTON, HAWLEY, BARRASSO, PERDUE, FISCHER, and CORNYN.

The CHIEF JUSTICE. Thank you.

The question from Senator LOEFFLER and Senators BLACKBURN, HYDE-SMITH, COTTON, HAWLEY, BARRASSO, PERDUE, FISCHER, and CORNYN is for counsel for the President:

As a fact witness who was coordinating with the whistleblower, did Manager SCHIFF's handling of the impeachment inquiry create material due process issues for the President to have a fair trial?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senators, thank you for that question.

And I believe the short answer is yes, it did create a material due process issue. And as I explained the other day in a portion of my argument, there were three major due process violations: the lack of an authorization, so that the whole proceeding started in an illegitimate and constitutionally invalid manner; second, the lack of basic due process protections related to fundamental rights to present evidence, cross-examine witnesses, present witnesses; and the final one is that Manager SCHIFF or his staff had some role in consulting with the whistleblower that remains secret to this day. And all attempts to find out about that, to ask questions about that were shut down. Manager SCHIFF said today that he had no contact with the whistleblower, that it was only his staff. But the extent to which there was some consultation there hasn't actually been probed by any question.

All the questions that Republican Members of the House tried to ask about that were shut down. And any questions as a result of questions into determining who the whistleblower was and what his motivations and bias were also shut down.

The inspector general for the intelligence community noted—we heard that earlier this evening—in his letter to the Acting Director of the DNI that the whistleblower had the indicia of political bias because the whistleblower had connections with a Presidential candidate of another party.

But the testimony from the inspector general of the intelligence community remains secret. It was in executive session. It hasn't been forwarded from HPSCI to the House Judiciary Committee and, therefore, is not part of the RECORD here. There hasn't been any ability to probe into the relationships between the whistleblower and others who are materially relevant to the issues in this inquiry.

If the whistleblower, as is alleged in some public reports, actually did work for then-Vice President Biden on Ukraine issues, exactly what was his role? What was his involvement when issues were raised? We know from testimony the questions were raised about the potential conflict of interest that the Vice President then had when his son was sitting on the board of Burisma. Was the alleged whistleblower involved in any of that and in making decisions to not do anything related to that? Did he have some reason to want to put the deep six on any question raising any issue about what went on with the Bidens and Burisma and firing Shokin and withholding $1 billion in loan guarantees and in forcing a very explicit quid pro quo: You won't get this $1 billion until you fire him.

We don't know. And because Manager SCHIFF was guiding this whole process, because he was the chairman in charge of directing the inquiry and directing it away from any of those questions, that creates a real due process defect in the record that has been presented here.

So yes, that is a major problem and major defect in the way the House proceedings occurred that infects this record. It means that it is not a record that could be relied upon to reach any conclusion other than an acquittal for the President.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Michigan.

Mr. PETERS. Mr. Chief Justice, I have a question for the House managers that I will send to the desk.

The CHIEF JUSTICE. Thank you.

Senator PETERS asks the House managers:

Does an impeachable abuse of power require that a President's corrupt plan actually succeed?

Ms. Manager LOFGREN. Mr. Chief Justice and Senators, the answer is no. Just as, although this is not a criminal offense, if you attempted murder but didn't succeed, you would not be innocent. The President has attempted to upend the constitutional order for his own personal benefit. He used the powers of the—let's put up slide 11, if we could. He has used the powers of his office to solicit foreign interference, and we know this by the President's own statements, the Acting Chief of Staff's confession, substantial documentary evidence, and witness testimony. And this has grave consequences for our national security, for threatened election security, as well as undermining U.S. credibility and our values abroad.

Now, because the President continues to act in this manner, we believe that this is an ongoing threat. While the impeachment was going on, the President's personal lawyer, Mr. Giuliani, was in Ukraine, continuing this scheme, and when he landed—he was still taxiing—the President and he were on the phone.

The President was asking him: What did you get? What did you get?

So this is an ongoing matter. The fact that he had to release the aid after his scheme was revealed does not end the problem.

I have listened with great interest to the back-and-forth in the questions. It is hard because I want to get up and answer all of the questions, and I can't, but I do think that the President has made it clear that he believes he can do whatever he wants—whatever he wants—and there is no constraint that is being recognized by the Congress.

Mr. Mulvaney, as we have noted, has acknowledged that the President directly tied his hold on military aid to his desire to get Ukraine to conduct a political investigation, and he told us to just get over it.

The President's lawyers have suggested we should not believe our eyes because Mr. Mulvaney—when I was a kid, they would say: Don't believe your lying eyes—walked that back later. We have an opportunity, actually, to hear from a witness who directly spoke to the President, who, apparently, can tell us that the President told him that the only reason this aid was held up was to get dirt on the Democrats.

If we just think about it—put Ukraine to one side—if a Chief Executive called the Department of Justice and said, ''I want you to investigate my political opponents. I want you to announce an investigation,'' there wouldn't be any question that that would be an improper use of Presidential power. It is really no different when you follow a foreign government except that it is worse because one of the things that the Founders worried about was the involvement of foreign governments in our matters, in our elections. So, yes, the fact that he

didn't succeed in that particular instance does not mean that we are safe.

I was stunned to hear that now, apparently, it is OK for the President to get information from foreign governments in an election. That is news to me, you know, that the election campaign laws prohibit accepting anything of value. A thing of value is information. If you or I accepted material information from a source—an email, a database, and the like—without paying for it or from a foreign nation, that would be illegal; but the thought that this—as we go forward in this trial itself, we are creating additional dangers to the Nation by suggesting that things that have long been prohibited are now suddenly going to be OK because they have been asserted in the President's defense.

I yield back.

The CHIEF JUSTICE. Thank you.

The Senator from Wyoming.

Mr. BARRASSO. Mr. Chief Justice, I send a question to the desk on behalf of myself and Senators RISCH, HAWLEY, and MORAN.

The CHIEF JUSTICE. Thank you.

The question is from Senators BARRASSO, RISCH, HAWLEY, and MORAN for counsel to the President:

Can the Senate convict a sitting U.S. President of obstruction of Congress for exercising the President's constitutional authorities or rights?

Mr. Counsel PHILBIN. Mr. Chief Justice and Senators, thank you for the question.

I think the short answer is, constitutionally, no, the Senate may not convict the President for exercising his constitutional authorities.

The theory that the House managers have presented—I think Professor Turley, in testifying before the House, made it very clear—is itself an abuse of power by Congress and is dangerous for the structure of our government because the fundamental proposition at the heart of the obstruction of Congress charge that the House managers have brought is that the House can simply demand information.

If the executive branch resists, even if it provides lawful rationales—perhaps ones that the House managers disagree with but that are consistent with longstanding precedents and principles applied by the executive branch—and if the House managers disagree with them, they jump immediately to impeaching the President. That is dangerous for our structure of government. We are talking about principles here—one based on simply the failure of the House to proceed lawfully.

We have heard a lot about the President is not above the law, but as Professor Dershowitz pointed out, the House of Representatives is not above the law. It has to turn square corners. It has to proceed by the proper methods to issue subpoenas to the executive branch.

So, if the House has an issue about subpoenas and if the House attempts to subpoena a senior adviser to the President and the President asserts the immunity of the senior adviser—a doctrine that has been asserted by virtually every President since President Nixon and goes back earlier than that—then there is a confrontation between the branches. That doesn't suggest an impeachable offense. What it suggests—what it shows—is a separation of powers in operation. That friction between the branches is part of the constitutional design.

It was Justice Louis Brandeis who explained that the separation of powers was enshrined in the Constitution not because it was the most efficient way to have government, but because the friction that it caused and the interaction between the branches was part of a way of guaranteeing liberty by ensuring that no one branch could aggrandize power to itself.

What the House managers are suggesting here is directly antithetical to that fundamental principle. What they are suggesting is, once they decide they want to pursue impeachment and when they make demands for information to the Executive, the Executive has no defenses. It can have no constitutional authorities or prerogatives to raise in response to those subpoenas. It has to just turn over everything or it is an impeachable offense. What that would lead to, as Professor Turley explained, is transforming our system of government by elevating the House and making it, really, a parliamentary system.

As Professor Dershowitz was explaining, in the parliamentary system, the Prime Minister can simply be removed by a vote of no confidence, but if you make it so easy to impeach the President—all the House has to do is demand some information, goad a response from a President that this is contrary to the principles that all Presidents before me have asserted, and I am going to stick by the executive branch's prerogatives—then the House can say: Well, that is it. You will be impeached.

If the votes are there to remove the President, you make the President dependent on the legislature, and that is what Gouverneur Morris warned against specifically during the Constitutional Convention. He warned the Framers, when we make a method for making the President amenable to justice, we should make sure that we do not make him dependent on the legislature.

It was the parliamentary system's making it easy to remove the Chief Executive that the Framers wanted to reject, and this theory of obstruction of Congress would create exactly that system of easy removal, effectively a parliamentary system of a vote of no confidence. That is not the structure of the government that the Framers enshrined in the Constitution for us.

Thank you.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Connecticut.

Mr. BLUMENTHAL. Thank you, Mr. Chief Justice.

Mr. Chief Justice, I send a question to the desk on behalf of myself and Senators WARNER, HEINRICH, and HARRIS.

The CHIEF JUSTICE. Thank you.

The question from Senator BLUMENTHAL and Senators WARNER, HEINRICH, and HARRIS reads as follows:

Before the break, the President's Counsel stated that accepting ''mere information'' from a foreign source is not something that would violate campaign finance law, and that it is not campaign interference to accept ''credible information'' from a foreign source about someone who is running for office. Under this view, acceptance of the kinds of propaganda disseminated by Russia in 2016—on Facebook and other social media platforms, using bots, fake accounts and other techniques to spread disinformation—would be perfectly legal and appropriate. Isn't it true that accepting such a thing of value is, in fact, a violation of law? And isn't it true that it is one of the highest priorities of our Intelligence Community, including the CIA, NSA, DNI, and FBI, to do everything possible to prevent such foreign interference or intervention in our elections?

Mr. Manager SCHIFF. It is, without question, among the very highest priorities of our intelligence agencies and our law enforcement to prevent foreign interference in our election of the type and character that we saw in 2016.

When Russia hacked the databases of the Democratic National Committee—the DCCC—when they began a campaign of leaking those documents and when it engaged in a massive and systemic social media campaign, our intel agencies and law enforcement had been devoting themselves to preventing a recurrence of that type of foreign interference.

If I am understanding counsel and the President correctly—and I think that I am—they are saying that not only is that OK to willingly accept that but that the very allegation against the President that Bob Mueller spent 2 years investigating didn't amount to criminal conspiracy. That is, Did he prove beyond a reasonable doubt the crime of conspiracy? Again, we are talking about something separate from collusion here, although my colleagues keep confusing the two. Bob Mueller didn't address the issue of collusion. What he did address was whether he could prove the elements of criminal conspiracy, and he found that he could not.

What counsel for the President is now saying is that, even if he could have, that is OK. It is now OK to criminally conspire with another country to get help in a Presidential election, as long as the President believes it would help his campaign, and, therefore, it would help our country. That is now OK. It is OK to ask for that help. It is OK to work with that power to get that help. That is now OK.

It has been a remarkable evolution of the Presidential defense. It began with ''none of that stuff happened here.'' It began with ''nothing to see here.'' It migrated to, OK, they did seek investigations of the President's political

rival, and then it became, OK, those investigations were not sought by official channels to official policy. They were sought by the President's lawyer in his personal capacity. Then it migrated to, OK, we acknowledge that, while the President's lawyer was conducting this personal political errand, the President withheld the money, but we think that is OK.

We have witnessed over the course of the last few days and the long day today a remarkable lowering of the bar to the point now where everything is OK as long as the President believes it is in his reelection interest. You could conspire with another country to get its help in your election either by its intervening on your behalf to help you or by its intervening to hurt your opponent.

Now, we are told that that is not only OK, but it is beyond the reach of the Constitution. Why? Because abuse of power is not impeachable. If you say abuse of power is impeachable, well, then, you are impeaching Presidents for mere policy. Well, that is nonsense. They are not the same thing.

They are not the same thing as Professor Turley has argued. They are not the same thing as Bill Barr has argued. They are not the same thing as Professor Dershowitz argued 21 years ago, and they are not the same thing today. They are just not. You can't solicit foreign interference, and the fact that you are unsuccessful in getting it doesn't exonerate you. The failed scheme doesn't make you innocent.

A failed scheme doesn't make you innocent. If you take a hostage and you demand a ransom and the police are after you and you release the hostage before you get the money, it doesn't make you innocent. It just makes you unsuccessful—an unsuccessful crook—but it doesn't mitigate the harmful conduct.

And this body should not accept nor should the American people accept the idea put out by the President's lawyers today that it is perfectly fine—unimpeachable—for the President of the United States to say ''Hey, Russia'' or ''Hey, Ukraine'' or ''Hey, China, I want your help in my election'' because that is the policy of the President. We are calling that policy now. It is the policy of the President to demand foreign interference and withhold money from an ally at war unless they get it. That is what they call policy.

I am sorry; that is what I call corruption, and they can dress it up in fine legalese, but corruption is still corruption.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Maine.

Ms. COLLINS. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you.

The question from Senator COLLINS is for the House managers:

The House Judiciary Committee report accompanying the Articles of Impeachment asserted the President committed criminal bribery as defined in 18 U.S.C., section 201, and Honest Services Fraud as defined in 18 U.S.C., section 1346, but these offenses are not cited in the Articles of Impeachment. Did the President's actions as alleged in the Articles of Impeachment constitute violations of these Federal criminal laws, and if so, why were they not included in the Articles?

Mr. Manager JEFFRIES. Thank you, Chief Justice, and thank you, Senator, for your question.

Our article I alleges corrupt abuse of power—corrupt abuse of power connected to the President's effort to try to cheat in the 2020 election by pressuring Ukraine to target an American citizen, Joe Biden, solely for personal and political gain and then to solicit foreign interference in the 2020 election. And the scheme was executed in a variety of ways.

Now, Professor Dershowitz has indicated, based on his theory of what is impeachable, that it has to either be a technical criminal violation, though the weight of constitutional authority says the contrary, but he said that it should be something that is either a criminal violation or something akin to a criminal violation—akin to a criminal violation.

And what we allege in article I falls into that category because what happened here is that President Trump solicited a thing of value in exchange for an official act. The thing of value was phony political dirt in the form of an investigation sought against Joe Biden, his political opponent, and he asked for it explicitly on that July 25 call and through his intermediaries repeatedly in the spring, throughout the summer, into the fall—solicited a thing of value in exchange for two official acts.

One official act was the release of $391 million in security aid that was passed by this Senate and by the House on a bipartisan basis, and the President withheld it without justification. Witnesses said there was no legitimate public policy reason, no legitimate substantive reason, no legitimate foreign policy or national security reason for withholding the aid. It was withheld to solicit foreign interference.

Yes, that is akin to a crime. That is your standard, sir.

The President also solicited that political dirt in exchange for a second official act: the White House meeting that the Ukrainian leader desperately wanted—so much so that he mentioned it on the July 25 call, and even when President Trump met with President Zelensky at the sidelines of the U.N. in late September, the President of Ukraine brought up the Oval Office meeting again because it was valuable to him. The President withheld it—withheld that official act—to solicit foreign interference in the 2020 election.

That is not acceptable in America. That undermines our democracy. That is a stunning, corrupt abuse of power. And yes, sir, it is akin to a crime.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from New York.

Mrs. GILLIBRAND. Mr. Chief Justice, I send a question to the desk on behalf of Senators CASEY, MURPHY, ROSEN, and myself for the House managers.

The CHIEF JUSTICE. Thank you, Senator from New York.

The question from Senators GILLIBRAND, CASEY, MURPHY, and ROSEN is to the House managers:

How do the President's actions differ from other holds, and how is the hold and release of congressionally appropriated assistance to foreign countries supposed to work?

Mr. Manager CROW. Chief Justice, thank you, Senators, for the question.

To be very clear, what the President did is not the same as a routine withholding or reviewing of foreign aid to ensure that it aligns with the President's policy priorities or to adjust the geopolitical developments because, indeed, if that were the case, if the President had engaged that process, had gone through the interagency review process, had gone through the routine congressional certification process, we would have the documents, we would have the testimony, we would have the facts to back that up.

But, indeed, what we have are none of those facts, none of those documents, and in an almost 2-month period, none of the individuals who would normally be involved in that process were aware of the reason for the hold.

Now, let's look at some prior holds in the cases of Obama's—President Obama's—temporary holds. Congress was notified of the reasons for those holds, and it was always done in the national interest, whether it be corruption, national security, in support of our alliances—never the President's own personal interests.

But let's look at even President Trump's other holds in Afghanistan because of concerns about terrorism or in Central America because of immigration concerns. They were done for reasons related to official U.S. policy. They weren't concealed. They were public—widely publicized—and had engaged not only Congress but the Department of Defense, Department of State, and the entire apparatus that is involved in conducting those holds—again, none of which happened here.

So all of this goes to show—the evidence shows that there is no legitimate policy reason. Why violate the Impoundment Control Act? Why keep all of the people involved in these holds in the dark?

The President's agencies and advisers confirmed repeatedly that the aid was in the best interests of our country's national security, including Secretary Esper, Secretary Pompeo, Vice President PENCE, Ambassador Bolton. Over and over again, everybody was imploring the President to release the hold—to no avail.

The evidence also shows that even the process was unusual, as I talked about earlier, and you have heard, over

the last week, a career OMB official, Mr. Sandy, explain that Mr. Duffey, the President's handpicked political appointee who has refused to testify at the President's direction, took over responsibility to authorize the aid.

Mr. Sandy confirmed that, in his entire career at OMB, he had never seen or experienced career officials having their apportionment authority removed by a political appointee. Senators, this is what we are talking about. There has been a lot of discussion.

You haven't heard from me in a little while. I suspect there is a reason for that. I suspect it is because we don't want to talk about the big issue. We don't want to talk about what happened here.

The President abused his authority, put the interests of himself over the interests of the country, over the interests of our national security, over the interests of our free and fair elections. That is what we are here to talk about. That is what happened. That is what the evidence shows.

There is no evidence that shows a legitimate engagement of U.S. policy processes to forward legitimate ends.

The CHIEF JUSTICE. Thank you, Mr. Manager.

The Senator from Missouri.

Mr. BLUNT. Mr. Chief Justice, I send a question to the desk on behalf of myself, Senators MCCASKILL—MCSALLY, rather—LANKFORD—it was a terrifying moment—on behalf of myself, Senator MCSALLY, Senator LANKFORD, Senator GARDNER, Senator CAPITO, and Senator WICKER. This is a question for the President's counsel.

The CHIEF JUSTICE. Thank you.

The question from Senator BLUNT and other Senators is for the counsel for the President:

What does the supermajority threshold for conviction in the Senate, created by the Framers, say about the type of case that should be brought by the House and the standard of proof that should be considered in the Senate?

Mr. Counsel DERSHOWITZ. Mr. Chief Justice, Senators, there were several debates among the Framers, of course: Should you have impeachment at all? We talked about that—what the criteria for impeachment should be. But then there was another debate: Who should have the ultimate responsibility for deciding whether the President should be removed?

James Madison suggested the Supreme Court of the United States as a completely nonpartisan institution.

Alexander Hamilton was concerned about that issue, as well, but he said the Supreme Court would be inappropriate because the judicial branch should not become involved directly as a branch—OK to preside over the trial—because ultimately an impeached President can be put on trial for crimes if he committed crimes.

And Hamilton said that if he were to be put on trial, he would then be put on trial in front of the same institution—the judiciary—that had already impeached him, and they might have a predisposition.

So in the course of the debate, it was finally resolved that the Senate, which was a very different institution back at the founding—obviously, Senators were not directly elected; they were appointed by the legislature. They were supposed to serve as an institution that checked on the House of Representatives—more mature, more sober, elected for longer periods of time, with an eye to the future, not so concerned about pleasing the popular masses.

Remember, the Framers were very concerned about democracy. Nobody ever called the United States a democracy—''a Republic, if you can keep it,'' not a democracy—very great concern about that.

And then, when it came time to assign it to the Senate, there was discussion about what the criteria and what the—obviously—vote should be. The selection of a two-thirds supermajority was plainly designed—plainly designed—to avoid partisan impeachments, plainly designed to effectuate the very wise philosophy espoused by the Congressman and the Senator during the Clinton campaign; that is, during the Clinton impeachment.

Never ever have an impeachment or removal that is partisan. Always demand that it be a widespread consensus, a widespread national agreement, and bipartisan support. What better way of assuring bipartisan support than requiring a two-thirds vote because almost in every instance, in order to get a two-thirds vote, you need Members of both parties.

The Johnson case was a perfect example. In order to get that vote, you needed not only the party that was behind the impeachment, but you needed people from the other side as well, and when seven Republicans dissented based, I believe, largely on the arguments of Justice Curtis and others—arguments I paraphrased here the other day—it lost by merely one vote. The Clinton impeachment, if you remember correctly, achieved a 50/50 split. Am I right about that? I think I am right about that. And it only lost—and it could have been 51-to-49. It wouldn't have been enough.

So I think it is plain that not only does the two-thirds requirement serve as a check on the House, but I think it sends a message to every Senator. It sends a message even to those Senators who would be in the one-third to reconsider because if you are voting for a partisan impeachment, you are violating the spirit of the two-thirds requirement.

There are many institutions where at the end of the day—for example, political conventions—they seek a unanimous vote just to show unity. I would urge some Senators who favor impeachment to look at the two-thirds and say: If there is not going to be a two-thirds, there shouldn't be an impeachment, and therefore, we are going to vote against impeachment even though we might think that the criteria for impeachment has been satisfied.

Do not vote for impeachment, do not vote for removal, unless you think the criteria articulated by the Senator and the Congressman and, I believe, by the Constitution and by Hamilton are met, namely, bipartisan, almost universal concern by the United States of America. That criteria is not met, and the two-thirds requirement really illustrates the importance the Framers gave to that criteria.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Connecticut.

Mr. MURPHY. Mr. Chief Justice, I send a question to the desk.

The CHIEF JUSTICE. Thank you.

The majority leader.

Mr. MCCONNELL. Mr. Chief Justice, while the question is coming up, I understand that there are two more Democratic questions and two more Republican questions.

The CHIEF JUSTICE. Thank you.

The question from Senator MURPHY is to the President's counsel:

The House Managers have committed to abide by rulings by the Chief Justice regarding witness testimony and the admissibility of evidence, and that they will not appeal such rulings. Will the President's Counsel make the same commitment, thus obviating any concerns about an extended trial?

Mr. Counsel SEKULOW. Mr. Chief Justice, Members of the Senate, we had this question. We will say it very clearly. We are not willing to do that, and we are not willing to do that because of the constitutional framework upon which an impeachment is based and the constitutional privileges that are at stake, with no disrespect at all to the Chief Justice.

That is not the constitutional design. It is the same thing they are doing again. Surrender the constitutional prerogatives you have, and then we will proceed in this way. Give us documents, give us witnesses, and if you don't, we are going to charge you with obstruction of Congress.

In this case, it is ''We are willing to live,'' according to the managers, ''by whatever the Chief Justice decides.'' But that is not the way the constitutional framework is set up, and it is putting us in exactly the same spot again: Give up your right to challenge a subpoena in court; rely only on the person who is here—by the way, again, with no disrespect to the Chief Justice. The Chief Justice is here as the Presiding Officer of this proceeding.

So the President is not willing to forgo those rights and privileges that he possesses under the Constitution, under article II, for expediency. They tried that below in the House. We trust that will not be the decision here in the Senate.

Thank you, Mr. Chief Justice.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Mississippi.

Mr. WICKER. Mr. Chief Justice, I send a question to the desk for Professor Dershowitz on behalf of myself and Senators MCSALLY and MORAN.

The CHIEF JUSTICE. The question for counsel to the President, directed to Professor Dershowitz, by Senators WICKER, MCSALLY, and MORAN, is this:

Professor Dershowitz: You stated during your presentation that the House grounds for impeachment amount to the ''most dangerous precedent.'' What specific danger does this impeachment pose to our republic? To its citizens?

Mr. Counsel DERSHOWITZ. Thank you, Mr. Chief Justice. Thank you, Senators.

I came of age during the period of McCarthyism. I then became a young professor during the divisive time of the Vietnam war. I, as you, lived through the division during the Iraq war and 9/11 and following 9/11.

I have never lived at a more divisive time in the United States of America than today. Families have broken up. Friends don't speak to each other. Dialogue has disappeared on university campuses. We live in extraordinarily dangerous times. I am not suggesting that the impeachment decision by the House has brought that on us. Perhaps it is merely a symptom of a terrific problem that we have facing us and likely to face us in the future.

I think it is the responsibility of this mature Senate, whose job it is to look forward, whose job it is to ensure our future, to make sure the divisions don't grow even greater.

Were the President of the United States to be removed today, it would pose existential dangers to our ability to live together as a people. The decision would not be accepted by many Americans. Nixon's decision was accepted—easily accepted. I think that decisions that would have been made in other cases would be accepted. This one would not be easily accepted because it is such a divided country, such a divided time.

If the precedent is established that a President can be removed on the basis of such vague and recurring and open-ended and targeted terms as ''abuse of power''—40 Presidents have been accused of abuse of power. I bet you all of them have. We just don't know some of the charges against some of them, but we have documentation on so many. If that criteria were to be used, this would just be the beginning of a recurring weaponization of impeachment whenever one House is controlled by one party and the Presidency is controlled by another party.

Now the House managers say there are dangers of not impeaching, but those dangers can be eliminated in 8 months. If you really feel there is a strong case, then campaign against the President. But the danger of impeachment will last my lifetime, your lifetime, and the lifetime of our children.

So I urge you respectfully, you are the guardians of our future. Follow the constraints of the Constitution. Do not allow impeachment to become a normalized weapon, in the words of one of the Framers. Make sure that it is reserved only for the most extraordinary of cases, like that of Richard Nixon. This case does not meet those criteria.

The CHIEF JUSTICE. Thank you, counsel.

The Senator from Arizona.

Ms. SINEMA. Mr. Chief Justice, I submit a question to the President's counsel.

The CHIEF JUSTICE. Thank you.

The question from Senator SINEMA to President's counsel is this:

The administration notified Congress of the hold of the Northern Triangle countries' funds in 2019, announced its decision to withhold aid to Afghanistan in September 2019, and worked with Congress for months in 2018 regarding funds being withheld due to Pakistan's lack of progress meeting its counterterrorism responsibilities. In these instances, the receiving countries knew the funds were being withheld to change behavior and further publicly-stated American policy. Why, when the administration withheld the Ukraine security assistance, did it not notify Congress, or make Ukraine or partner countries publicly aware of the hold and the steps needed to resolve the hold?

Mr. Counsel PHILBIN. Mr. Chief Justice, Senator, thank you for the question.

I think that, in all of those instances that were listed in the question, it was clear that withholding the aid was meant to send a signal. It was done publicly, and it was meant to send a signal to the country. I think that in the testimony before the House here, Ambassador Volker made clear that he and others hoped that the hold would not become public because they did not want there to be any signal to the Ukrainians or to others.

People have talked here—the House managers talked about how, well, even if the aid, when it was withheld, didn't lead to anything not being purchased over the summer, it was still dangerous because it sent a signal to the Russians. The whole point was, it wasn't public. The Ukrainians didn't know. The Russians didn't know. It wasn't being done to send a signal; it was to address concerns.

The President had raised concerns, and he wanted time to have those concerns addressed. He wanted to understand better burden-sharing—the issue that is reflected in the June 24 email that I referred to earlier; it is referred to in the July 25 call transcripts—and he wanted to understand corruption issues. He raised corruption issues.

Over the course of the summer, the testimony of Mr. Morrison in particular below explained that there were developments on corruption. President Zelensky had just been elected in April. At that time, multiple witnesses testified that it was unclear. He had run on a reform agenda, but it was unclear what he would be able to accomplish because it was unclear whether or not he would secure a majority in the Ukrainian Parliament. Those elections didn't occur until July. That is when the July 25 call occurred.

He won the majority in Parliament, but the Parliament was not actually going to be seated until later in August. Mr. Morrison testified that when he and Ambassador Bolton were in Kyiv in August, around August 27, that the Parliament had just been seated, and Zelensky and his Ministers were tired because they had been up all night. They kept the Parliament up late in session to pass the reform agenda right then, including things like eliminating immunity for members of the Parliament from corruption, prosecutions, and the legislature just set up the newly formed corruption court.

So these developments were positive developments, but then Mr. Morrison testified that President Zelensky, when he spoke to Vice President PENCE in Warsaw, discussed these things, and President Zelensky went through what he was doing, and then that information was relayed back to the President.

So the hold had been in place so that the President could, within the U.S. Government, privately consider this information, not to send a signal to the outside world.

This plays into some of the ideas that the House manager presented that somehow this was terrible; it sent a signal to the Russians. Part of the whole point, Ambassador Volker explained, was that there was concern that it not become public because it would then not send a signal. That is what happened until the POLITICO article came out on August 28. I think that is the best way to understand the difference and approach there. Thank you.

The CHIEF JUSTICE. Thank you, counsel.

Mr. YOUNG. Mr. Chief Justice.

The CHIEF JUSTICE. The Senator from Indiana.

Mr. YOUNG. I send a question to the desk on behalf of myself and Senator BRAUN.

The CHIEF JUSTICE. Thank you. The Senator from Indiana and Senator BRAUN ask both parties the following question:

We were promised by House managers that the evidence supporting each article of impeachment would be ''overwhelming'' and ''uncontested.'' Virtually every day, House managers have insisted that the Senate cannot have a trial without witnesses. Do both parties agree that the Senate has included in evidence in this trial the testimony of every single witness from which the House heard before they voted, except for the intelligence community IG report that Chairman SCHIFF kept secret?

We begin with the House managers.

Mr. Manager SCHIFF. Let me take this opportunity, if I can, to answer a few questions. First, is the fact that the testimony of the witnesses before the House sufficient to relieve the Senate of an obligation to have a trial? And the answer is no. There is no reason, and, indeed, every other Senate trial—impeachment trial in history—has involved witnesses who did not testify before the House. This will be the

first departure. It shouldn't be if it is to be a fair trial.

I want to quickly respond to a couple of other points. The question was asked: Why didn't we charge bribery? And the answer is we could have charged bribery. In fact, we outlined the facts that constitute bribery in the article, but ''abuse of power'' is the highest crime. The Framers have it in mind as the highest crime. The facts we allege within that do constitute bribery, but had we charged bribery within the ''abuse of power'' article, I can assure you that counsel here would be arguing: You have charged two offenses within the same article. That makes that invalid. We wouldn't have had Alan Dershowitz making that argument because he says abuse of power is not impeachable. They would have had Jonathan Turley here making that argument. If we split them into two separate articles—one for abuse of power and one for bribery—they would have argued you have taken one crime and made it into two.

The important constitutional point here is not that the acts within abuse of power constitute bribery—although they do. The important point is we charged a constitutional crime—the most serious crime. The Founders gave the President enormous powers, and their most important consideration was that the President not abuse that power, and they provided a remedy, and that remedy is impeachment.

One final point. Mr. Sekulow said that is not how the Constitution works. The Constitution doesn't allow the Chief Justice to make those decisions, but, you know, he doesn't say the Constitution prohibits. The Constitution permits it if they will agree, but they won't. And he said it is the same as in the House, and it is the same as in the House. And it is the same in this way: If they were operating in good faith, if they really wanted a fair resolution, if they weren't just shooting for delay, they would allow the Chief Justice to make these decisions.

But what they do not want is they do not want you to hear John Bolton. And why? Because when you hear, graphically, a man saying the President of the United States told me to withhold aid from our ally, to coerce foreign assistance in his election, when the American people hear that firsthand—not filtered through our statements—they will recognize impeachable conduct when they see it.

The CHIEF JUSTICE. Thank you, Mr. Manager.

Mr. Sekulow, you have 2½ minutes.

Mr. Counsel SEKULOW. Thank you, Mr. Chief Justice.

With regard to the last statement, I am just going to say: Asked and answered. I have answered the question about the issue of moving forward if there were witnesses and our view on that. I don't have to say anything else.

Now, with regard to the question that was actually presented, 29 times—29 times—the House managers have used the phrase ''overwhelming, uncontested, sufficient.'' ''Proved'' they said 31 times. Now, that is just what the record says.

It is true that the record from the House was accepted provisionally subject to evidentiary objections, but they are the ones who have said ''overwhelmingly'' and ''proved.'' Now, we, of course, disagree with their conclusions as a matter of fact and as a matter of law. But for them to come up here and to argue ''proved'' and ''overwhelmingly'' a total of, I guess, 64 times in a couple of days, tells me a lot about what they want.

What we are asking for is this proceeding to continue, and with that, we are done.

Thank you, Mr. Chief Justice

The CHIEF JUSTICE. Thank you, counsel.

The majority leader is recognized.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. MCCONNELL. Mr. Chief Justice, I ask unanimous consent that the trial adjourn until 1 p.m., Thursday, tomorrow, January 30, and this order also constitute the adjournment of the Senate.

There being no objection, at 11:05 p.m., the Senate, sitting as a Court of Impeachment, adjourned until Thursday, January 30, 2020, at 1 p.m.

EXTENSIONS OF REMARKS

CELEBRATING THE LIFE OF AMBASSADOR FELIX ROHATYN

HON. NANCY PELOSI
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. PELOSI. Madam Speaker, I rise today to pay tribute to a man of vision and great intellect, whose life and legacy were marked by extraordinary achievements and a profound love for America: Ambassador Felix Rohatyn. From ushering New York City through economic crisis to proudly serving our nation as Ambassador to France to becoming a leading voice for building the infrastructure of America in a green way, Ambassador Rohatyn embodied the American spirit and helped build a brighter future for all Americans. His passing last December is a great official loss for our nation and a profound personal loss for all those privileged to call him a friend, counselor and loved one.

Felix Rohatyn was born in Vienna, Austria in 1928 to a prominent Jewish family. By 1935, he and his parents were forced to flee their home to escape the rise of Nazism, embarking on a years-long journey that eventually brought them to safety in the United States in 1942. His early experience as a refugee instilled in him a love for our bedrock American values of freedom, justice and economic opportunity for all, an appreciation that he honored throughout his life.

His professional success made him a sought-after economic expert and intellectual resource for countless public officials and leaders around the world. When New York City faced an unprecedented insolvency crisis in the 1970s, Felix Rohatyn's collaborative leadership skills brought together political and financial interests to make the difficult decisions needed to save the city. In the process, he made sure that the city invested in all its citizens, setting aside funding for schools, housing and public transportation to ensure a financially stable and prosperous future for millions of Americans.

Felix Rohatyn brought that same successful leadership, in addition to his fluency in French, to representing the United States as Ambassador to France. During his ambassadorship, he worked to strengthen the economic and cultural bonds between our nations, reaffirming an unbreakable friendship and partnership that dates back to the founding of our country.

It was always a privilege to have Ambassador Rohatyn meet with Members of Congress to discuss the most pressing issues facing our economy and our nation. His passionate advocacy for robust, climate change—resilient infrastructure made him a thoughtful advisor and effective Co-Chair of the bipartisan Commission on Public Infrastructure, helping Congress establish a framework to rebuild our nation and boost our economy in a sustainable, job-creating way.

After Superstorm Sandy in 2012, his forward-looking vision was essential to his service as Co-Chair of the New York State 2100 Commission. The innovative strategies he helped develop have been critical in rebuilding devastated communities and will ensure the city is better prepared to meet the challenges posed by the worsening climate crisis.

America was blessed by the life and leadership of Ambassador Felix Rohatyn. May it be a comfort to his children, Pierre, Nicolas and Michael, his many grandchildren and the entire Rohatyn family that so many mourn their loss and pray for them at this sad time.

TRIBUTE TO FOSTENIA W. BAKER

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. CLYBURN. Madam Speaker, I rise today to pay tribute to the life and legacy of a tenacious and proud South Carolinian, who worked tirelessly her entire life to ensure her family's story was not forgotten. Earlier this month, we lost Dr. Fostenia W. Baker, a lifelong educator, family historian, and determined advocate. She will be sorely missed.

Fostenia Baker was a native of Florence, South Carolina, and she graduated from South Carolina State College (now University), which is also my alma mater. During her time as a student, I got to know Fostenia as my future wife Emily's roommate. There was always something different about Fostenia, but I didn't understand until much later the family history that made her demeanor stand out.

Fostenia, like many of our classmates, left South Carolina after graduation and earned a master's degree from City College of New York and a doctorate from George Washington University. She began her teaching career in the New York City Public Schools in 1970. Five years later, she returned to South Carolina to teach health education at Voorhees College and later served as a research fellow in the School of Epidemiology at the University of South Carolina. She remained in South Carolina, teaching education at Allen University and serving as a science instructor in Colleton County Schools in Walterboro, South Carolina.

In 1984, Dr. Baker was appointed instructor of education for the District of Columbia Department of Corrections in Washington, D.C. She went on to become an assistant professor of health education at Trinity College and later Howard University, both in Washington, D.C. Her final position from 1997 to 2005 was as instructor of science and health education in the Prince Georges County Public Schools in Hyattsville, Maryland.

Dr. Baker won numerous teaching awards including an Excellence Award as Health Education Chairperson for Prince Georges County Public Schools and the Innovative Professor Award at Howard University. She also published numerous articles in scientific journals and a book entitled Women's Health, What Do You Know About It.

In addition to her professional work, it was a personal family history that was her true passion. In 1897, her great uncle, Frazier B. Baker, was named the first Black Postmaster in Lake City, South Carolina. Immediately, he was threatened by the white community who didn't want him to serve in this important role. Postmaster Baker would not be deterred by their intimidation, and he performed his job with distinction despite constant torment. On February 22, 1898, the harassers make good on their promise to remove him from his post by firing upon the Baker family in their home. Frazier Baker and his infant daughter were killed in the attack, and the other five family members barely escaped.

Dr. Baker was determined to ensure that her great uncle's lynching would not be forgotten. She spent her life pursuing recognition for Postmaster Baker—writing a book of his life story and appearing in the documentary An Outrage that told the story of lynching in the American South.

She also contacted me to ask if Congress would name the Lake City Post Office in Postmaster Baker's honor. I decided to champion the effort and introduced legislation in 2018, that was co-sponsored by all members of the South Carolina delegation. It became law later that year.

On February 22, 2019, the 121st anniversary of Frazier Baker's murder, Fostenia Baker joined me in Lake City as we officially dedicated the Postmaster Frazier B. Baker Post Office. It was one of the proudest days in her life, and I was pleased to be there to share it with her.

Without her determination, Postmaster Baker's story may have continued to be lost to history. However, Fostenia's tremendous work has ensured that his story will endure. Her "bulldog tenacity" is a tribute to how one person can truly make a difference.

Madam Speaker, I ask that you and my colleagues join me in celebrating the life of Dr. Fostenia Baker. She is an inspiring example of a life well lived. Her legacy lives on in the students she taught and the lessons she has left for future generations by sharing her family's history.

RECOGNIZING THE LIFE OF MR. BUSTER DAVIS

HON. TRENT KELLY
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KELLY of Mississippi. Madam Speaker, I rise today to celebrate the life of Buster Davis, who passed away on Thursday, January 9th at the age of 93.

Buster was born on October 25, 1926, in Tishomingo County, Mississippi. He was a basketball legend at Belmont High School in Belmont, Mississippi, where he led the team to win two State Championships. After High School, Buster obtained a Bachelor of Science

from Mississippi State University, then received his Masters from the University of Mississippi before answering the call to serve our great nation in the United States Army during WWII.

On August 22, 1948, Buster married Billie Faye South, and they remained together for over 63 years. Buster's love for basketball brought him back to Belmont High School where he became a basketball coach. He also coached at both Kossuth High School in Corinth, Mississippi and Thrasher High School in Booneville, Mississippi. In 1962, Buster began coaching at Itawamba Junior College in Fulton, Mississippi, and led the team to multiple State Finals. He left his coaching career in 1975 and started his career with Davis Ford. He stayed with Ford for over 55 years.

Left to cherish his memory are his daughters: Pam Davis Horton of Birmingham, Alabama, and Patti Davis Bennett of Fulton, Mississippi; his grandchildren, great-grand children, as well as many friends and extended family members.

Buster's life was one of service, grace, love for his family, and community. He will be greatly missed by all who he encountered.

TRIBUTE TO THE SPITZER SPACE TELESCOPE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SCHIFF. Madam Speaker, I rise today to honor a National Aeronautics and Space Administration (NASA) mission managed by the Jet Propulsion Laboratory (JPL), the Spitzer Space Telescope. After 16 years of discovering hidden truths of our Universe, Spitzer will be retired on January 30, 2020.

Designed to study the cold, old and dusty, Spitzer was launched in August of 2003 and used its sensitive sensors to study infrared light emitted by celestial bodies and cosmic objects from our own solar system to the furthest reaches of the Universe. Spitzer returned data on space phenomena from asteroids to the most distant galaxies ever detected whose light was emitted 13.4 billion years ago when the universe was less than 5 percent of its current age. It discovered the largest ring around Saturn made of dust particles, identified the first Buckyballs in space, found distant blackholes and mapped out our Milky Way with unprecedented clarity. Spitzer gave us a view beyond the gas and dust clouds to study the youngest stars and the ingredients to create planets, comets and other components of our solar system.

As with many NASA missions, the telescope operated much longer than expected and has a long list of accomplishments beyond the mission's original science goals. Undoubtedly, one of Spitzer's greatest discoveries was seven Earth-size planets in around the star TRAPPIST–1. Spitzer enabled scientists to study exoplanets and identify atmospheric molecules, temperature variations, and wind speed.

As Spitzer is safely retired in deep space orbit far from Earth, the legacy of the mission will be continued by the James Webb Space Telescope, which will also conduct infrared astronomy based on Spitzer's pioneering and trailblazing work in infrared light. The massive amount of data collected by Spitzer has been used in over 8,700 scientific publications and its data will continue to be available to the scientific community around the world for future research.

I have great appreciation and pride for the countless personnel that have worked to ensure that Spitzer operated with precision, from design to data analysis, that allowed Spitzer to study the Universe with infrared light. The numerous discoveries made move us closer to shedding light on the profound mysteries of our Universe. I ask all members to join me in honoring the achievements of the Spitzer Space Telescope and the hard-working individuals and organizations that made Spitzer's mission so successful.

CONGRATULATING DR. JEAN G. CHAMPOMMIER ON HIS RETIREMENT

HON. JUDY CHU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. JUDY CHU of California. Madam Speaker, I rise today to congratulate Dr. Jean G. Champommier on his retirement from a distinguished career in community organizing and social work. He has dedicated his life to creating programs that improve the lives of those in underserved communities throughout Los Angeles County.

Dr. Champommier began his career in social work during the 1960s when he took on a field-work placement at the Kennedy Child Study Center in Santa Monica. Through this position, he worked with children with developmental disabilities and their families, solidifying his passion for helping his neighbors and his community.

Since 1983, Dr. Champommier has served as the Executive Director, and later President/CEO, of Alma Family Services. This agency provides communities throughout Los Angeles County with multilingual and multicultural services, including helping families and individuals cope with substance abuse, emotional difficulties, and developmental challenges. Through his role at Alma, he expanded the agency's first contract with the Los Angeles County Department of Mental Health and oversaw Alma's growth as a provider of community-integrated social programs. During his tenure, Alma has added social rehabilitation programs for child abuse, gang prevention and reduction programs, and has grown to 16 sites throughout Los Angeles County. In 2015, Dr. Champommier was appointed by County Supervisor Hilda Solis to Los Angeles' Public Health Commission. Eventually serving as chair of the Commission, he supervised the Public Health Department's programs and made recommendations to the Board of Supervisors to ensure that community input was heard in matters of public health.

Dr. Champommier's impact stretches outside his field work and into the classroom. He has taught courses in child welfare and community organization at UC Santa Barbara, Cal State Northridge, and Cal State L.A., and has also been an instructor in social work for USC and UCLA. Additionally, he has coordinated conferences on youth empowerment and farm labor for UC Santa Barbara Extension.

Dr. Champommier's career demonstrates his admirable dedication and service to his community. I thank him for his 40 years of contributions to Los Angeles and wish him nothing but the best in retirement.

IN HONOR OF JOHN ROBERT MILLER

HON. BRETT GUTHRIE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. GUTHRIE. Madam Speaker, I rise today to honor the service of World War II veteran John Robert Miller of Barren County, Kentucky.

After growing up in Freedom, Kentucky, John Robert volunteered for the Army when he was just eighteen years old in June 1941. He served in the Pacific theater until World War II concluded in 1945. During his Army service, John Robert rose to the rank of technical sergeant in an artillery unit, and he witnessed General Douglas MacArthur stepping off the landing craft to make his triumphant return to the Philippines.

Following his service in the Army, John Robert became a fixture in the Barren County community. He married his wife Christine in 1945, and they were married for 67 years until her death in 2013. John Robert was a farmer with hogs, corn, and tobacco, and he also worked as a crop insurance adjuster. John Robert served as a Magistrate on the Barren County Fiscal Court for three years, and he has served as an Election Commissioner since 1993. In 2016, John Robert was awarded the Patriot Award by Barren County Veteran's Association, and he was inducted into the Alumni Hall of Honor for Barren County Schools.

I thank John Robert for his service to our country and to our community.

RECOGNIZING LEXI RODRIGUEZ FOR BEING NAMED THE 2019–2020 GATORADE ILLINOIS VOLLEYBALL PLAYER OF THE YEAR

HON. CHERI BUSTOS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mrs. BUSTOS. Madam Speaker, I rise today to recognize Lexi Rodriguez, a junior from Sterling High School, who was named the 2019–2020 Gatorade Illinois Volleyball Player of the Year.

Lexi led the Golden Warriors to a 36–6 record and a second win at Class 3A State Championships this year. Showing her dedication to sports, she also took part of this season to help Team USA win a gold medal at the FIVB Girls U18 World Championships in Egypt. In addition, she is a three-year class president and a youth volleyball coach. As a former athlete, I commend her for her determination and attitude. Lexi is an example of the importance of dedication and a strong work ethic. I am proud to see her represent Sterling so well throughout the state and the country with her talent and passion.

It is because of student leaders such as Lexi that I am especially proud to serve Illinois' 17th Congressional District. Madam

Speaker, I would like to again formally congratulate Lexi Rodriguez on being named the 2019–2020 Gatorade Illinois Volleyball Player of the Year.

NEVER AGAIN EDUCATION ACT

SPEECH OF

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 2020

Mr. ENGEL. Madam Speaker, I rise to speak in favor of H.R. 943, the Never Again Education Act.

Monday, we recognized International Holocaust Remembrance Day, which marks 75 years since the liberation of the Auschwitz death camp. The Holocaust is a crime without parallel. And how we deal with its memory defines us as a people and as a country.

As we look back at one of the darkest chapters in history, it is also our duty to look forward.

Antisemitism is on the rise and hatred and intolerance seem to spread unchecked. This cannot stand. As we honor the memory of those who came before us, we must recommit ourselves to securing a bright future for the next generation.

To ensure this, we must continue to educate younger generations on the atrocities of the Holocaust and how it could occur. That is why I strongly support H.R. 943. It is critical that the Department of Education provide the funds needed for schools to implement Holocaust education programs into their curriculum, so students understand the history of the Holocaust. I urge the Senate to pass this bill immediately.

PERSONAL EXPLANATION

HON. TRENT KELLY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KELLY of Mississippi. Madam Speaker, I was unable to vote on January 28, 2020 due to National Guard obligations.

Had I been present, I would have voted NAY on Roll Call No. 25, NAY on Roll Call No. 26, and YEA on Roll Call No. 27.

RECOGNIZING JOHN JOHNSON ON HIS RETIREMENT FROM THE HOUSE ARMED SERVICES COMMITTEE

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SMITH of Washington. Madam Speaker, on behalf of the House Armed Services Committee, I rise to honor and express gratitude to Mr. John Johnson for his illustrious career serving his country upon his retirement. Known as JJ to his friends and family, his long career is marked with distinction and praise from his colleagues who consider him an exemplary patriot and an embodiment of what it means to dedicate one's life to service.

Born in Georgetown, South Carolina, Mr. Johnson's service to our country started in 1969 when he joined the U.S. Air Force. He served in the prestigious Air Force Honor Guard and, later, in the Air Force Legislative Liaison Office at the Pentagon, rising to the rank of Senior Master Sergeant. After 20 years of service, Mr. Johnson retired from the Air Force but chose to stay in Washington to join the Capitol Hill Police Department, where he served for another 20 years. During his four decades of service, he supported over 100 Congressional Delegation trips and served in every Presidential Inauguration since President Nixon.

In 2009, Mr. Johnson retired from the Capitol Police but again chose to serve the public by joining the House Armed Services Committee. Over the past decade, he has supported the Committee with all hearings, meetings, and events. He has been an instrumental part of the committee's staff and although he kept a low profile, his impact is deeply felt and is a testament to his invaluable work and contribution. His presence will be sorely missed by his many colleagues who consider him a close friend, mentor, and inspiration.

Madam Speaker, it is with great pleasure that I recognize and thank John Johnson for his many years of service to this country and the House Armed Services Committee. I wish him a happy retirement, to be enjoyed with his friends and family.

CELEBRATING THE 10TH ANNIVERSARY OF NAPERVILLE FIRE STATION 10

HON. BILL FOSTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. FOSTER. Madam Speaker, I rise today to recognize the 10th anniversary of Naperville Fire Station 10. Opened in 2010, Fire Station 10 has allowed the Naperville Fire Department (NFD) to provide greater service to the citizens of Southwestern Naperville. It is also the first fire station in Naperville to receive a leadership in Energy and Environmental Design (LEED) certification, reflecting the NFD's commitment to sustainable decision-making.

The NFD provides fire protection for more than 146,000 people and employs 200 full-time personnel. I would like to thank the Naperville Fire Department and all Naperville emergency service workers for the lifesaving work they do for our community.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the Government Accountability Office's January 16, 2020 legal opinion finding that the Trump Administration's Office of Management and Budget violated the Impoundment Control Act of 1974 by withholding foreign aid. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

GAO DECISION

Matter of: Office of Management and Budget—Withholding of Ukraine Security Assistance.

File: B–331564.

Date: January 16, 2020.

DIGEST

In the summer of 2019, the Office of Management and Budget (OMB) withheld from obligation funds appropriated to the Department of Defense (DOD) for security assistance to Ukraine. In order to withhold the funds, OMB issued a series of nine apportionment schedules with footnotes that made all unobligated balances unavailable for obligation. Faithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law. OMB withheld funds for a policy reason, which is not permitted under the Impoundment Control Act (ICA). The withholding was not a programmatic delay. Therefore, we conclude that OMB violated the ICA.

DECISION

In the summer of 2019, OMB withheld from obligation approximately $214 million appropriated to DOD for security assistance to Ukraine. *See* Department of Defense Appropriations Act, 2019, Pub. L. No. 115–245, div. A, title IX, §9013, 132 Stat. 2981, 3044–45 (Sept. 28, 2018). OMB withheld amounts by issuing a series of nine apportionment schedules with footnotes that made all unobligated balances for the Ukraine Security Assistance Initiative (USAI) unavailable for obligation. *See* Letter from General Counsel, OMB, to General Counsel, GAO (Dec. 11, 2019) (OMB Response), at 1–2. Pursuant to our role under the ICA, we are issuing this decision. Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344, title X, §1015, 88 Stat. 297, 336 (July 12, 1974), *codified at* 2 U.S.C. §686. As explained below, we conclude that OMB withheld the funds from obligation for an unauthorized reason in violation of the ICA. See 2 U.S.C. §684. We also question actions regarding funds appropriated to the Department of State (State) for security assistance to Ukraine.

OMB removed the footnote from the apportionment for the USAI funds on September 12, 2019. OMB Response, at 2. Prior to their expiration, Congress then rescinded and reappropriated the funds . Continuing Appropriations Act, 2020, Pub. L. No. 116–59, div. A, §124(b), 133 Stat. 1093, 1098 (Sept. 27, 2019).

In accordance with our regular practice, we contacted OMB, the Executive Office of the President, and DOD to seek factual information and their legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO–06–1064SP (Washington, D.C.: Sept. 2006), *available* at www.gao.gov/products/GA0–06–1064SP; Letter from General Counsel, GAO, to Acting Director and General Counsel, OMB (Nov. 25, 2019); Letter from General Counsel, GAO, to Acting Chief of Staff and Counsel to the President, Executive Office of the President (Nov. 25, 2019); Letter from General Counsel, GAO, to Secretary of Defense and General Counsel, DOD (Nov. 25, 2019).

OMB provided a written response letter and certain apportionment schedules for security assistance funding for Ukraine. OMB Response (written letter); OMB Response, Attachment (apportionment schedule). The Executive Office of the President responded to our request by referring to the letter we had received from OMB and providing that

the White House did not plan to send a separate response. Letter from Senior Associate Counsel to the President, Executive Office of the President, to General Counsel, GAO (Dec. 20, 2019). We have contacted DOD regarding its response several times. Letter from General Counsel, GAO, to Secretary of Defense and General Counsel, DOD (Dec. 10, 2019); Telephone Conversation with Deputy General Counsel for Legislation, DOD (Dec. 12, 2019); Telephone Conversation with Office of General Counsel Official, DOD (Dec. 19, 2019). Thus far, DOD officials have not provided a response or a timeline for when we will receive one.

BACKGROUND

For fiscal year 2019, Congress appropriated $250 million for the Ukraine Security Assistance Initiative (USAI). Pub. L. No. 115–245, §9013, 132 Stat. at 3044–45. The funds were available ''to provide assistance, including training; equipment; lethal assistance; logistics support, supplies and services; sustainment; and intelligence support to the military and national security forces of Ukraine.'' *Id*. §9013, 132 Stat. at 3044. The appropriation made the funds available for obligation through September 30, 2019. *Id*.

DOD was required to notify Congress 15 days in advance of any obligation of the USAI funds. *Id*. §9013, 132 Stat. at 3045. In order to obligate more than fifty percent of the amount appropriated, DOD was also required to certify to Congress that Ukraine had taken ''substantial actions'' on ''defense institutional reforms.'' John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115–232, div., A, title XII, 1246, 132 Stat. 1636, 2049 (Aug. 13, 2018) (amending National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114–92, div. A, title XII, §1250, 129 Stat. 726, 1068 (Nov. 25, 2015)). On May 23, 2019, DOD provided this certification to Congress. Letter from Under Secretary of Defense for Policy, to Chairman, Senate Committee on Foreign Relations (May 23, 2019) (DOD Certification) (noting that similar copies had been provided to the congressional defense committees and the House Committee on Foreign Affairs). In its certification, DOD included descriptions of its planned expenditures, totaling $125 million. *Id*.

On July 25, 2019, OMB issued the first of nine apportionment schedules with footnotes withholding USAI funds from obligation. OMB Response, 1–2. This footnote read:

''Amounts apportioned, but not yet obligated as of the date of this reapportionment, for the Ukraine Security Assistance Initiative (Initiative) are not available for obligation until August 5, 2019, to allow for an interagency process to determine the best use of such funds. Based on OMB's communication with DOD on July 25, 2019, OMB understands from the Department that this brief pause in obligations will not preclude DOD's timely execution of the final policy direction. DOD may continue its planning and casework for the Initiative during this period.'' *Id*.; *see id*., Attachment.

On both August 6 and 15, 2019, OMB approved additional apportionment actions to extend this ''pause in obligations,'' with footnotes that, except for the dates, were identical to the July 25, 2019 apportionment action. *Id*., at 2 n. 2. OMB approved additional apportionment actions on August 20, 27, and 31, 2019; and on September 5, 6, and 10, 2019. *Id*. The footnotes from these additional apportionment actions were, except for the dates, otherwise identical to one another. *Id*., Attachment. They nevertheless differed from those of July 25 and August 6 and 15, 2019, in that they omitted the second sentence that appeared in the earlier apportionment actions regarding OMB's understanding that the pause in obligation would not preclude timely obligation. *Id*. The apportionment schedule issued on August 20 read as follows:

''Amounts apportioned, but not yet obligated as to the date of this reapportionment, for the Ukraine Security Assistance Initiative (Initiative) are not available for obligation until August 26, 2019, to allow for an interagency process to determine the best use of such funds. DOD may continue its planning and casework for the Initiative during this period.'' *Id*., Attachment. The apportionment schedules issued on August 27 and 31, 2019; and on September 5, 6, and 10, 2019 were identical except for the dates. *Id*. On September 12, 2019, OMB issued an apportionment that removed the footnote that previously made the USAI funds unavailable for obligation. OMB Response, at 2; *id*., Attachment. According to OMB, approximately $214 million of the USAI appropriation was withheld as a result of these footnotes. OMB Response, at 2. OMB did not transmit a special message proposing to defer or rescind the funds.

DISCUSSION

At issue in this decision is whether OMB had authority to withhold the USAI funds from obligation. The Constitution specifically vests Congress with the power of the purse, providing that ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.'' U.S. Const. art. I, §9, cl. 7. The Constitution also vests all legislative powers in Congress and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a bill passed by both Houses of Congress, and Congress may subsequently override a presidential veto. *Id*., art. I, §7, cl. 2, 3. The President is not vested with the power to ignore or amend any such duly enacted law. See *Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (the Constitution does not authorize the President ''to enact, to amend, or to repeal statutes''). Instead, he must ''faithfully execute'' the law as Congress enacts it. U.S. Const., art. II, §3.

An appropriations act is a law like any other; therefore, unless Congress has enacted a law providing otherwise, the President must take care to ensure that appropriations are prudently obligated during their period of availability. See B–329092, Dec. 12, 2017 (the ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold). In fact, Congress was concerned about the failure to prudently obligate according to its Congressional prerogatives when it enacted and later amended the ICA. *See generally*, H.R. Rep. No. 100–313, at 66–67 (1987); *see also* S. Rep. No. 93–688, at 75 (1974) (explaining that the objective was to assure that ''the practice of reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress'').

The Constitution grants the President no unilateral authority to withhold funds from obligation. See B–135564, July 26, 1973. Instead, Congress has vested the President with strictly circumscribed authority to impound, or withhold, budget authority only in limited circumstances as expressly provided in the ICA. *See* 2 U.S.C. §§681–688. The ICA separates impoundments into two exclusive categories—deferrals and rescissions. The President may temporarily withhold funds from obligation—but not beyond the end of the fiscal year in which the President transmits the special message—by proposing a ''deferral.'' 2 U.S.C. §684. The President may also seek the permanent cancellation of funds for fiscal policy or other reasons, including the termination of programs for which Congress has provided budget authority, by proposing a ''rescission.'' 2 U.S.C. §683.

In either case, the ICA requires that the President transmit a special message to Congress that includes the amount of budget authority proposed for deferral or rescission and the reason for the proposal. 2 U.S.C. §§683–684. These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA. *See* 2 U.S.C. §§683–684; B–237297.4, Feb. 20, 1990 (vague or general assertions are insufficient to justify the withholding of budget authority). The burden to justify a withholding of budget authority rests with the executive branch.

There is no assertion or other indication here that OMB intended to propose a rescission. Not only did OMB not submit a special message with such a proposal, the footnotes in the apportionment schedules, by their very terms, established dates for the release of amounts withheld. The only other authority, then, for withholding amounts would have been a deferral.

The ICA authorizes the deferral of budget authority in a limited range of circumstances: to provide for contingencies; to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or as specifically provided by law. 2 U.S.C. §684(b). No officer or employee of the United States may defer budget authority for any other purpose. *Id*.

Here, OMB did not identify—in either the apportionment schedules themselves or in its response to us—any contingencies as recognized by the ICA, savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary ''to determine the best use of such funds.'' See OMB Response, at 2; Attachment. In its response to us, OMB described the withholding as necessary to ensure that the funds were not spent ''in a manner that could conflict with the President's foreign policy.'' OMB Response, at 9.

The ICA does not permit deferrals for policy reasons. *See* B–237297.3, Mar. 6, 1990; B–224882, Apr. 1, 1987. OMB's justification for the withholding falls squarely within the scope of an impermissible policy deferral. Thus, the deferral of USAI funds was improper under the ICA.

When Congress enacts appropriations, it has provided budget authority that agencies must obligate in a manner consistent with law. The Constitution vests lawmaking power with the Congress. U.S. Const., art. I, §8, cl. 18. The President and officers in an Administration of course may consider their own policy objectives as they craft policy proposals for inclusion in the President's budget submission.

See B–319488, May 21, 2010, at 5 (''Planning activities are an essential element of the budget process.''). However, once enacted, the President must ''take care that the laws be faithfully executed.'' *See* U.S. Const., art. II, §3. Enacted statutes, and not the President's policy priorities, necessarily provide the animating framework for all actions agencies take to carry out government programs. *Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 374 (1986) (''[A]n agency literally has no power to act . . . unless and until Congress confers power upon it.''); *Michigan v. EPA*, 268 F.3d 1075, 1081 (D.C. Cir. 2001) (a federal agency is ''a creature of statute'' and ''has no constitutional or common law existence or authority, but only those authorities conferred upon it by Congress'').

Faithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law. In fact, Congress was concerned about exactly these types of withholdings when it enacted and later amended the ICA. *See* H.R. Rep. No. 100–313, at 66–67 (1987); *see also* S. Rep. No. 93–688, at 75 (1974) (explaining that the objective was to assure that ''the practice of reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress'').

OMB asserts that its actions are not subject to the ICA because they constitute a programmatic delay. OMB Response, at 7, 9. It argues that a ''policy development process is a fundamental part of program implementation,'' so its impoundment of funds for the sake of a policy process is programmatic. *Id.*, at 7. OMB further argues that because reviews for compliance with statutory conditions and congressional mandates are considered programmatic, so too should be reviews undertaken to ensure compliance with presidential policy prerogatives. *Id.*, at 9. OMB's assertions have no basis in law. We recognize that, even where the President does not transmit a special message pursuant to the procedures established by the ICA, it is possible that a delay in obligation may not constitute a reportable impoundment. See B–329092, Dec. 12, 2017; B–222215, Mar. 28, 1986. However, programmatic delays occur when an agency is taking necessary steps to implement a program, but because of factors external to the program, funds temporarily go unobligated. B–329739, Dec. 19, 2018; B–291241, Oct. 8, 2002; B–241514.5, May 7, 1991. This presumes, of course, that the agency is making reasonable efforts to obligate. B–241514.5, May 7, 1991. Here, there was no external factor causing an unavoidable delay. Rather, OMB on its own volition explicitly barred DOD from obligating amounts.

Furthermore, at the time OMB issued the first apportionment footnote withholding the USAI funds, DOD had already produced a plan for expending the funds. See DOD Certification, at 4–14. DOD had decided on the items it planned to purchase and had provided this information to Congress on May 23, 2019. *Id.* Program execution was therefore well underway when OMB issued the apportionment footnotes. As a result, we cannot accept OMB's assertion that its actions are programmatic.

The burden to justify a withholding of budget authority rests with the executive branch. Here, OMB has failed to meet this burden. We conclude that OMB violated the ICA when it withheld USAI funds for a policy reason.

FOREIGN MILITARY FINANCING

We also question actions regarding funds appropriated to State for security assistance to Ukraine. In a series of apportionments in August of 2019, OMB withheld from obligation some foreign military financing (FMF) funds for a period of six days. These actions may have delayed the obligation of $26.5 million in FMF funds. *See* OMB Response, at 3. An additional $141.5 million in FMF funds may have been withheld while a congressional notification was considered by OMB. *See* E-mail from GAO Liaison Director, State, to Staff Attorney, GAO, *Subject: Response to GAO on Timeliness of Ukraine Military Assistance* (Jan. 10, 2020) (State's Additional Response). We have asked both State and OMB about the availability of these funds during the relevant period. Letter from General Counsel, GAO, to Acting Director and General Counsel, OMB (Nov. 25, 2019); Letter from General Counsel, GAO, to Secretary of State and Acting Legal Adviser, State (Nov. 25, 2019). State provided us with limited information. E-mail from Staff Attorney, GAO, to Office of General Counsel, State, *Subject: RE: Response to GAO on Timeliness of Ukraine Military Assistance* (Dec. 18, 2019) (GAO's request for additional information); E-mail from GAO Liaison Director, State, to Assistant General Counsel for Appropriations Law, GAO, *Subject: Response to GAO on Timeliness of Ukraine Military Assistance* (Dec. 12, 2019) (State's response to GAO's November 25, 2019 letter); State's Additional Response. OMB's response to us contained very little information regarding the FMF funds. *See generally* OMB Response, at 2–3.

As a result, we will renew our request for specific information from State and OMB regarding the potential impoundment of FMF funds in order to determine whether the Administration's actions amount to a withholding subject to the ICA, and if so, whether that withholding was proper. We will continue to pursue this matter.

CONCLUSION

OMB violated the ICA when it withheld DOD's USAI funds from obligation for policy reasons. This impoundment of budget authority was not a programmatic delay.

OMB and State have failed, as of yet, to provide the information we need to fulfill our duties under the ICA regarding potential impoundments of FMF funds. We will continue to pursue this matter and will provide our decision to the Congress after we have received the necessary information.

We consider a reluctance to provide a fulsome response to have constitutional significance. GAO's role under the ICA—to provide information and legal analysis to Congress as it performs oversight of executive activity—is essential to ensuring respect for and allegiance to Congress' constitutional power of the purse. All federal officials and employees take an oath to uphold and protect the Constitution and its core tenets, including the congressional power of the purse. We trust that State and OMB will provide the information needed.

THOMAS H. ARMSTRONG,
General Counsel.

PERSONAL EXPLANATION

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. GRANGER. Madam Speaker, I was unable to attend votes due to circumstances beyond my control.

Had I been present, I would have voted YEA on Roll Call No. 23; YEA on Roll Call No. 24; NAY on Roll Call No. 25; NAY on Roll Call No. 26; and YEA on Roll Call No. 27.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. SÁNCHEZ. Madam Speaker, on Roll Call Number 23, On motion to suspend the rules and pass H.R. 943, To authorize the Secretary of Education to award grants to eligible entities to carry out educational programs about the Holocaust, and for other purposes, I was unavoidably detained and missed the vote.

Had I been present, I would have voted YEA.

I was also unavoidably detained for Roll Call Number 24, On motion to suspend the rules and pass H.R. 4704 to direct the Director of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding of the issues that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability.

Had I been present, I would have voted YEA.

PERSONAL EXPLANATION

HON. DOUG COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. COLLINS of Georgia. Madam Speaker, on Monday, January 27, 2020, I was absent from the vote series due to my attendance at a funeral in Georgia.

Had I been present, I would have voted YEA on Roll Call No. 23, and YEA on Roll Call No. 24.

KOBE BRYANT

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. LEE of California. Madam Speaker, I rise today heartbroken upon hearing of the sudden passing of Kobe Bryant, his daughter Gianna, and occupants Christina Mauser, Keri Altobelli, John Altobelli, Alyssa Altobelli, Payton Chester, Sarah Chester, and Ara Zobayan.

Kobe was an inspirational leader, advocate, athlete and father. He inspired people from across the world to strive for greatness, to be the best, and to invoke what he called, the Mamba Mentality.

Kobe not only inspired the people of California but the entire world. From his incredibly difficult jump shots, to his selfless charitable efforts, Kobe always worked hard to stand up for what he believed in and to be a great father to four beautiful girls whom he loved.

This unimaginable tragedy has rocked this world and left many hurt. Kobe Bryant finished his NBA career among the best to have ever played the game.

His legacy will live on forever and we must come together to support the entire Bryant family and all the families affected through this tragedy.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the December 10, 2018 Government Accountability Office's decision confirming Congress' power of the purse by concluding that, while the Impoundment Control

Act does, under limited circumstances, allow the President to withhold money for up to 45 congressional session days, the President cannot freeze the money for so long that it can no longer be used. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

GAO, U.S. GOVERNMENT
ACCOUNTABILITY OFFICE,
December 10, 2018.

Subject: Impoundment Control Act—Withholding of Funds through Their Date of Expiration

Hon. STEVE WOMACK,
Chairman, Committee on the Budget,
House of Representatives.
Hon. JOHN YARMUTH,
Ranking Member, Committee on the Budget,
House of Representatives.

This responds to your request for our legal opinion regarding the scope of the authority provided under the Impoundment Control Act of 1974 (ICA) to withhold budget authority from obligation pending congressional consideration of a rescission proposal. Pub. L. No. 93–344, title X, 88 Stat. 297, 332 (July 12, 1974), *amended* by Pub. L. No. 100–119, title II, §§206, 207, 101 Stat. 754, 785 (Sept. 29, 1987), *classified* at 2 U.S.C. §§681–688; Letter from Representative Steve Womack, Chairman, and Representative John Yarmuth, Ranking Member, House Committee on the Budget, to Comptroller General (Oct. 31, 2018). Under limited circumstances, the ICA allows the President to withhold amounts from obligation for up to 45 calendar days of continuous congressional session. *See* ICA, §1012(b); 2 U.S.C. §683(b). At issue here is whether the Act allows such a withholding of a fixed-period appropriation scheduled to expire within the prescribed 45-day period to continue through the date on which the funds would expire.

As discussed below, we conclude that the ICA does not permit the withholding of funds through their date of expiration. The statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of the legislative and executive powers provide no basis to interpret the ICA as a mechanism by which the President may unilaterally abridge the enacted period of availability of a fixed-period appropriation. The Constitution vests in Congress the power of the purse, and Congress did not cede this important power through the ICA. Instead, the terms of the ICA are strictly limited. The ICA permits only the temporary withholding of budget authority and provides that unless Congress rescinds the amounts at issue, they must be made available for obligation. The President cannot rely on the authority in the ICA to withhold amounts from obligation, while simultaneously disregarding the ICA's limitations. In accordance with our regular practice, we contacted the Office of Management and Budget (OMB) for its legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO–06–1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/products/GAO-06-1064SP; Letter from General Counsel, GAO, to General Counsel, OMB (Nov. 1, 2018). In response, OMB provided its legal analysis. Letter from General Counsel, OMB, to General Counsel, GAO (Nov. 16, 2018) (Response Letter).

BACKGROUND

The Constitution specifically vests Congress with the power of the purse, providing that ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.'' U.S. Const., art. I, §9, cl. 7. The Constitution also vests all legislative powers in Congress and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a bill passed by both houses of Congress and Congress may subsequently override a presidential veto. *Id.*, art. I, §7, cl. 2, 3. The procedures of bicameralism and presentment form the only mechanism for enacting federal law. *See INS* v. *Chadha*, 462 U.S. 919, 951 (1983) (''[T]he prescription for legislative action in Art. I, §§1, 7, represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.''). The Constitution also vests Congress with power to make all laws ''necessary and proper'' to implement its constitutional authorities.

U.S. Const., art. I, §8, cl. 18. To that end, Congress has enacted several permanent statutes that govern the use of appropriations, including the Antideficiency Act, which provides that agencies may incur obligations or make expenditures only when sufficient amounts are available in an appropriation.

31 U.S.C. §1341. Because agencies may incur obligations only in accordance with appropriations made by law, and because the Constitution vests all lawmaking power in Congress, only appropriations duly enacted through the constitutional processes of bicameralism and presentment authorize agencies to incur obligations or make expenditures. The Presentment Clauses allow the President to veto an appropriations bill before it becomes law. *See* Art. I, §7, cl. 2, 3. However, the Constitution provides no mechanism for the President to invalidate a duly enacted law. Instead, the Constitution requires the President to ''take Care that the Laws be faithfully executed.'' U.S. Const., art. II, §3; *see also Clinton* v. *City of New York*, 524 U.S. 417, 438 (1998) (the Constitution does not authorize the President ''to enact, to amend, or to repeal statutes'').

An appropriation is a law like any other; therefore, unless Congress has enacted a law providing otherwise, the President must take care to ensure that appropriations are prudently obligated during their period of availability. *See* B–329092, Dec. 12, 2017 (noting that the ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold). An ''impoundment'' is any action or inaction by an officer or employee of the federal government that precludes obligation or expenditure of budget authority. GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO–05–734SP (Washington, D.C.: Sept. 2005), at 61. The President has no unilateral authority to withhold funds from obligation. *See* B–135564, July 26, 1973. The ICA, however, allows the President to impound budget authority in limited circumstances. The President may temporarily withhold funds from obligation—but not beyond the end of the fiscal year—by proposing a ''deferral.'' ICA, §1013; 2 U.S.C. §684. The President may also seek the permanent cancellation of funds for fiscal policy or other reasons, including the termination of programs for which Congress has provided budget authority, by proposing a ''rescission.'' ICA, §1012; 2 U.S.C. §683. When the President transmits a special message proposing a rescission of budget authority (a rescission proposal) in accordance with the ICA, amounts proposed for rescission may be impounded (that is, withheld from obligation) for a period of 45 calendar days of continuous congressional session. *See* ICA, §1012; 2 U.S.C. §683. The Act states that such amounts ''shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.'' ICA, §1012(b); 2 U.S.C. §683(b). Section 1017 of the ICA establishes expedited procedures to facilitate Congress's consideration of a rescission bill during the 45-day period. ICA, §1017; 2 U.S.C. §688. This opinion focuses on the withholding of amounts pursuant to a rescission proposal.

DISCUSSION

The ICA authorizes the President to withhold funds from obligation under limited circumstances. At issue here is whether the ICA allows the withholding of a fixed-period appropriation, pursuant to the President's transmission of a rescission proposal, to continue through the date on which the funds would expire.

POWERS GRANTED BY THE ICA ARE LIMITED

To interpret the ICA, we begin with the text of the statute and give ordinary meaning to statutory terms, unless otherwise defined. *Sebelius* v. *Cloer*, 569 U.S. 369,376 (2013); *BP America Production Co.* v. *Burton*, 549 U.S. 84, 91 (2006). Section 1012(b) states that funds proposed to be rescinded ''shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded . . . .'' Use of the conjunction ''unless'' denotes that the clause that follows provides an exception to the rule that precedes the term. *See American Heritage Dictionary* (4th ed. 2009) (defining ''unless'' as ''except on the condition that'' and ''except under the circumstances that''). Further, ''shall,'' in the context of a statute, generally means ''must.'' *Ballentine's Law Dictionary* (3d ed. 2010) (defining shall as ''the equivalent of 'must,' where appearing in a statute''). *See also Western Minnesota Municipal Power Agency* v. *FERC*, 806 F.3d. 588, 592 (D.C. Cir. 2015) (''shall give preference'' was a mandatory directive to the commission); *Drummond Coal Co.* v. *Watt*, 735 F.2d 469, 473 (11th Cir. 1984) (noting '' 'shall' is a mandatory, not permissive form''). The phrase ''shall be made available'' thus constitutes a mandatory directive that funds proposed for rescission be made available for obligation, and the term ''unless'' denotes the single exception to this requirement.

The text of section 1012(b) then provides that the only mechanism that permits budget authority to be permanently withheld is Congress's completion of action on a rescission bill within the 45-day period.

An appropriation is available to incur new obligations only during its period of availability, which, for a fixed-period appropriation, is a finite period of time. *See* 31 U.S.C. §1551(a)(3). *See also* 31 U.S.C. §§1501, 1502 (obligation of a fixed-period appropriation must correspond to the *bona fide* needs of the appropriation's period of availability and must be executed before the end of such period). For example, an agency may use a one-year appropriation to obligate the government for expenses properly chargeable to that year, or may use a multiple-year appropriation to obligate the government for expenses properly chargeable to that multiple-year period. But the government may not incur obligations against such appropriations after the relevant time frame, as the budget authority's period of availability would have ended.

Immediately after the period of availability for obligation of a fixed-period appropriation ends, the budget authority is ''expired'' and no longer available to incur new obligations. *Glossary*, at 23 (defining expired budget authority). *See also* 18 Comp. Gen. 969 (1939). An expired account is only available to record, to adjust, and to liquidate obligations properly chargeable to that account

during the account's period of availability. 31 U.S.C. §1553(a). Notably, the permissible uses of an expired appropriation relate back to obligations incurred during the period of availability of the funds and do not constitute new obligations themselves.

The plain language of section 1012(b) provides that absent Congress's completion of action on a rescission bill rescinding all or part of amounts proposed to be rescinded within the prescribed 45-day period, *such amounts must be made available for obligation*. The authority to withhold is not severable from the provision's requirement regarding the release of the funds. Indeed, the provision permits a *temporary* withholding of budget authority, and otherwise requires its availability for obligation in all other circumstances. As budget authority is available to incur obligations only during its period of availability, implicit in the ICA's requirement under section 1012(b) that budget authority be ''made available for obligation'' is that such budget authority must not be expired. Because a fixed-period appropriation is current only for a definite period of time, section 1012(b) of the ICA requires that if Congress does not enact a rescission bill, the appropriation must be made available for obligation during that finite period. After this finite period has ended, the appropriation is expired and cannot be available for new obligations.

Consequently, the ICA does not permit budget authority proposed for rescission to be withheld until its expiration simply because the 45-day period has not yet elapsed. A withholding of this nature would be an aversion both to the constitutional process for enacting federal law and to Congress's constitutional power of the purse, for the President would preclude the obligation of budget authority Congress has already enacted and did not rescind. For example, consider a situation where fiscal year budget authority is withheld pursuant to a special message submitted less than 45 days before the end of the fiscal year and where, upon conclusion of the 45-day period, Congress has not completed action on a corresponding rescission bill. An interpretation of section 1012(b) that would permit the withholding of such budget authority for the duration of the 45-day period would result in the expiration of the funds during that period. The expired amounts then could not be made available for obligation despite Congress not having completed action on a bill rescinding the amounts, as expired appropriations are not available for obligation. The ICA represents an agreement between the legislative and executive branches, whereby the President may withhold budget authority for a limited period during which Congress may *consider* the corresponding proposal to rescind the amounts using expedited procedures. The expiration of these amounts would frustrate the design of the ICA, as it would contravene the plain meaning of section 1012(b), which requires that amounts not rescinded during this period of *consideration* be ''made available for obligation.''

Regardless of whether the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire, section 1012(b) requires that budget authority be made available in sufficient time to be prudently obligated. The amount of time required for prudent obligation will vary from one program to another. In some programs, prudent obligation may require hours or days, while others may require weeks or months. We have previously signaled that the consequence of an unenacted rescission proposal should be the full and prudent obligation of the budget authority. B–115398, Aug. 27, 1976. In 1976, the President submitted a special message for which the 45-day period would end on September 29, 1976, leaving one day to obligate appropriations that were withheld. *Id.* We noted this one-day period could be insufficient to prudently obligate the funds. *Id.* We found the timing of the proposal ''particularly troublesome'' as it could ''operate to deny to the Congress the expected consequence of its rejecting a rescission proposal—the full and prudent use of the budget authority.'' *Id.*

We have drawn similar conclusions concerning deferrals under the ICA. In such cases we have noted that deferred funds must be released in sufficient time to allow them to be prudently obligated. *See* B–216664, Apr. 12, 1985 (emphasizing that deferral, under the President's sixth special message for fiscal year 1985, of amounts scheduled to expire should not extend beyond the point at which the funds could be prudently obligated). *See also* 54 Comp. Gen. 453 (1974) (recognizing that a deferral of budget authority that ''could be expected with reasonable certainty to lapse before [it] could be obligated, or would have to be obligated imprudently to avoid that consequence'' constitutes a de facto rescission, and must be reclassified as a rescission proposal).

The legislative history of the ICA supports this construction of section 1012(b). During consideration of the report of the committee of conference on H.R. 7130, 93rd Cong. (1974), which was ultimately enacted into law as the ICA, members recognized that affirmative congressional action is required for a rescission of funds under the language of section 1012. Senator Sam J. Ervin, Jr., the sponsor of a related bill, stated regarding section 1012:

''[The purpose) is to provide an orderly method by which differences of opinion may be reconciled between the President and Congress in respect to the amounts of appropriations sought . . . The recommendation of the President that an appropriation be eliminated or reduced *in and of itself would have no legal effect whatsoever*. In other words, for it to become effective, both Houses of Congress, by a majority vote, would have to take action either eliminating the appropriation or reducing the appropriation . . . I might say that the 45-day provision is placed in the bill for the purpose of spurring speedy congressional action, but with recognition of the fact that Congress cannot deprive itself of any other power it has under the Constitution.''

120 Cong. Rec. 20,473 (June 21, 1974) (statement of Sen. Ervin) (emphasis added). As one member stated succinctly when discussing similar language: ''the impoundment fails unless Congress acts affirmatively.'' 119 Cong. Rec. 15,236 (May 10, 1973) (statement of Sen. Roth) (debating S. 373, which would have required an impoundment to cease within 60 days unless it had been ratified by Congress). *See also* H.R. Conf. Rep. No. 93–1101, at 76 (1974); S. Conf. Rep. No. 93–924, at 76 (1974) (''Unless both Houses of Congress complete action on a rescission bill within 45 days, the budget authority shall be made available for obligation.'').

Congress considered bill language under which an impoundment would have continued indefinitely unless Congress took specific action to affirmatively *disapprove* of the impoundment. H.R. 8480, 93rd Cong. (1973) (providing that an impoundment ''shall cease *if* within [60] calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been disapproved by either House . . .'' (emphasis added)). However, Congress did not enact such language. Instead, Congress enacted legislation under which an impoundment becomes permanent only if Congress enacts appropriate legislation through the processes of bicameralism and presentment.

Under the Constitution, the President must take care to execute the appropriations that Congress has enacted. Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are permanently rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. One must read the ICA as a whole. The Act outlines a process, and affords the President limited authority to withhold appropriated amounts while Congress expedites its consideration of the President's legislative proposal to rescind the already enacted appropriations. It would be an abuse of this limited authority and an interference with Congress's constitutional prerogatives if a President were to time the withholding of expiring budget authority to effectively alter the time period that the budget authority is available for obligation from the time period established by Congress in duly enacted appropriations legislation. It would be inimical to the ICA and to its constitutional underpinnings for the executive to avail itself of the withholding authority in the ICA, but to ignore the remainder of the process. *See generally* B–330376, Nov. 30, 2018 (*citing NROC* v. *Abraham*, 355 F.3d 179, 205 (2d Cir. 2004)) (finding that agencies ''cannot have it both ways,'' claiming both the benefit of adhering to a statutory provision, while simultaneously arguing that the requirements of the provision do not apply). Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire: the requirement to make amounts available for obligation in this situation prevails over the privilege to temporarily withhold the amounts. OMB asserts that the ICA does not preclude an impoundment from persisting through the date on which amounts would expire. Response Letter, at 2.

Specifically, OMB relies on the purported silence of section 1012 with regard to the President's ability to propose rescissions under the ICA late in the fiscal year, as compared to the language in section 1013, which governs the deferral of budget authority. *Id.* In particular, section 1013 states that a deferral ''may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate[,]'' and also provides that the provisions of the section, which necessarily includes this proscription, do not apply to amounts proposed for rescission under section 1012. ICA, §§1013(a), (c); 2 U.S.C. §§684(a), (c). According to OMB, these distinctions demonstrate that section 1012 does not require the President to make withheld budget authority available for obligation before the end of the fiscal year. Response Letter, at 1. Under OMB's rationale, the ICA grants the President authority to withhold funds for the entire 45-day period, even if such withholding would result in the expiration of impounded balances.

We disagree with OMB's position. As a practical matter, OMB's interpretation of the ICA would grant the President unilateral authority to rescind funds that are near expiration by altering the time period that the budget authority is available for obligation from the time period established in existing law. Suppose the President were to transmit a special message less than 45 days before amounts are due to expire. In OMB's view, an impoundment could continue through the funds' date of expiration—at which point the funds would no longer be available for new obligations. Therefore, fiscal year funds proposed for rescission in a special message late

in the fiscal year, even if not legally rescinded by the enactment of legislation, would be effectively rescinded if Congress takes no action at all. In OMB's view, only through affirmative legislative action could Congress prevent the rescission of funds that the President proposes for rescission in a special message transmitted close to the date on which the funds would expire. OMB's reading of the ICA would preempt the congressional process by which the budget authority's period of availability was established, fundamentally ceding Congress's power of the purse to the President.

This interpretation would contradict the plain meaning of section 1012, which, by its terms, requires that amounts not rescinded through a rescission bill be made available for obligation. As previously discussed, this requirement that amounts be made available for obligation already limits the time frame during which such amounts may be permissibly withheld; there is no need in section 1012 for language that specifically prohibits amounts from being withheld beyond the end of the fiscal year.

In addition, the legislative history of the ICA indicates that the distinctions between section 1012 and section 1013, on which OMB relies, do not carry the implications that OMB suggests. *See* 120 Cong. Rec. at 20,473 (statements of Sen. Ervin and Sen. McClellan) (discussing distinction between deferral and rescission proposals). Unlike a rescission proposal, through which the President seeks the permanent cancellation of budget authority and may temporarily withhold amounts pending congressional consideration, the ultimate objective of a deferral proposal is a temporary withholding only. Section 1013 was crafted to govern this temporary withholding of budget authority and, thus, specifies that amounts may not be withheld beyond the end fiscal year. *See id.* In contrast, section 1012 limits withholding to the prescribed 45-day period, absent Congress's completion of a bill rescinding the amounts proposed for rescission. Neither does section 1013(c), which provides that the provisions of section 1013 do not apply to rescission proposals submitted under section 1012, support OMB's position that there is no restriction on when the President may submit a rescission proposal. Rather, section 1013(c) was intended to clarify that any action that would seek the permanent cancellation of budget authority must be governed by the more stringent provisions of section 1012. *See id.* (statement of Sen. Ervin) (''Any action or proposal which results in a permanent withholding of budget authority must be proposed under section 1012. Section 1013(c) specifically provides that section 1013 does not apply to cases to which section 1012 applies. Only temporary withholding may be proposed under section 1013 . . .'').

Through the ICA, Congress did not grant the President the extraordinarily broad rescissions authority that OMB asserts. Indeed, the ICA grants the President no authority whatsoever to rescind funds. The Act allows the President to transmit legislative proposals for rescission to Congress, while granting the President authority to withhold the funds for limited periods of time while Congress considers the proposals. Congress considered, and did not enact, language that would have granted the President authority to propose rescissions that would take permanent effect if Congress took no action. Instead, as we discussed above, under the ICA only Congress may rescind budget authority.

Under the Constitution, Congress enacts laws, and the President must take care to faithfully execute the terms of those laws, including appropriations acts. Within this framework, Congress enacted the ICA, which granted the President strictly circumscribed authority to temporarily withhold funds from obligation. The overarching constitutional framework of the executive and legislative powers, as well as the statutory text and legislative history of the ICA, provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting strategically-timed special messages. Rather, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the date on which the funds would expire.

PRIOR OPINIONS

We have previously considered situations in which the President transmitted special messages concerning amounts that were near their date of expiration. We have intimated that in such a situation, the President may withhold the budget authority from obligation for the duration of the 45-day period, and that Congress must take affirmative action to prevent the withheld funds from expiring. *See, e.g.*, B–115398, Dec. 15, 1975. In some instances we have simply noted that funds may expire, without stating whether the funds were properly withheld or reporting that they must be made available for obligation. *See, e.g.*, B–115398, Aug. 27, 1976. *See also* B–220532, Sept. 19, 1986 (reclassifying deferral as rescission proposal, recognizing potential for funds to expire before being able to be obligated for intended purpose). As we explain below, in light of Supreme Court precedent and subsequent amendments to the ICA, we overrule these prior opinions.

In the President's second special message for fiscal year 1976, submitted on July 26, 1975, he included two rescission proposals of budget authority scheduled to expire on September 30, 1975. B–115398, Aug. 12, 1975. In our review of the special message, we stated that these amounts would lapse nearly a month before expiration of the 45-day period, B–115398, Aug. 12, 1975, and, in a subsequent report on the status of funds, confirmed the amounts had in fact lapsed during the 45-day period, B–115398, Dec. 15, 1975. In our report on the status of the funds, we stated that ''having to wait 45 days of continuous session before it can be determined that a proposed rescission has been rejected is a major deficiency of the [ICA].'' B–115398, Dec. 15, 1975. We offered that Congress should have an affirmative means within the Act to address scenarios such as this, by, for example ''changing the Act to allow a rescission resolution as is now allowed for deferrals, or changing the Act to prevent funds from lapsing where the 45-day period has not expired.'' *Id.* We stated that with respect to the two rescission proposals, ''Congress was unable, under the Act, to reject the rescission in time to prevent the budget authority from lapsing.'' *Id.* When the ICA was enacted, it required deferred funds to be made available if either house of Congress passed an ''impoundment resolution'' disapproving of the deferral. Pub. L. No. 93–344, §1013(b) (prior to 1987 amendment). In 1975, we suggested that Congress create an analogous process to enable rejection of a rescission proposal. B–115398, Dec. 15, 1975. However, our statement predated *INS* v. *Chadha*, 462 U.S. 919, in which the Supreme Court held a one-house veto provision to be unconstitutional because it was an exercise of legislative power that circumvented the procedures of bicameralism and presentment. The deferral provision in the ICA was later eliminated in the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. Pub. L. No. 100–119, title II, §206.

Our 1975 opinions are based on the premise that Congress could amend the ICA to provide Congress with a unilateral mechanism to reject a rescission proposal. In addition to *Chadha*, other Supreme Court decisions also have resoundingly invalidated this premise. *See Clinton*, 524 U.S. 417, 438–41; *Chadha*, 462 U.S. at 951–58. As the Court made clear in *Clinton*, the Constitution vests the President with authority to ''initiate and influence legislative *proposals*.'' 524 U.S. at 438 (emphasis added). A rescission proposal is one such legislative proposal. The rescission proposal does not have the force of law: ''[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.'' *Id.*

Because bicameral passage by Congress is necessary for the President's proposal to become law, no congressional action is necessary to invalidate the President's proposal. Without affirmative congressional action, the President's proposal remains just that: a proposal. Our 1975 opinions intimate that, under some circumstances, congressional inaction on a rescission proposal can be tantamount to affirmative congressional action to enact the rescission proposal. This interpretation would, in effect, give the President power to amend or to repeal previously enacted appropriations merely by calibrating the timing of the submission of a special message. This interpretation is clearly contrary to the Supreme Court's rulings in *Chadha* and *Clinton*. *See* 524 U.S. at 448–49; 462 U.S. at 951–58. Therefore, we overrule our prior inconsistent opinions.

CONCLUSION

The terms of the ICA are strictly limited. They vest in the President limited authority to propose a rescission of budget authority and to withhold such budget authority from obligation for a limited time period during which Congress may avail itself of expedited procedures to consider the proposal. However, the statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of legislative and executive powers provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting rescission proposals shortly before amounts are due to expire.

To dedicate such broad authority to the President would have required affirmative congressional action in legislation, not congressional silence. *See, e.g.*, B–303961, Dec. 6, 2004 (declining to interpret a general ''notwithstanding'' clause to imply a waiver of the Antideficiency Act without indication that Congress intended to relinquish its ''strongest means'' to enforce its power of the purse). To paraphrase the Supreme Court, Congress does not alter the fundamental details of its constitutional power of the purse through vague terms or ancillary provisions—''it does not, one might say, hide elephants in mouseholes.'' *See Whitman* v. *American Trucking Ass'ns*, 531 U.S. 457, 468 (2001) (declining to interpret a statute in a manner inconsistent with its plain meaning). A construction of the ICA that would permit the withholding of funds proposed for rescission through their date of expiration would be precisely this elephant.

Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the

date on which the funds would expire. We overrule prior inconsistent GAO opinions.

Sincerely,

THOMAS H. ARMSTRONG,
General Counsel.

50TH ANNIVERSARY OF SAINT ELMO VILLAGE

HON. KAREN BASS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. BASS. Madam Speaker, on May 25, 2019, Saint Elmo Village celebrated 50 years as an artist colony that has worked to bring art into the everyday lives of young and old in the heart of Los Angeles. I congratulate all of the past and present residents, teachers, neighbors and supporters. I also commend its community of citizens for using their powers of creativity and artistic expression to create an oasis of beauty in Mid-City.

Saint Elmo Village was founded in 1969 by painter Rozzell Sykes, once featured in Life magazine, and his artist nephew Roderick Sykes, who hoped to use a small group of bungalows in the 4800 block of St. Elmo Drive to enhance the neighborhood and to further their artistic visions. Their goals: to capitalize on a thriving art scene in Southern California; construct a space to nurture urban and African American artists; and to prove that everyone has creative talents.

The Village continued to gain prestige, with the Sykes receiving numerous public art commissions and international recognition for their work, specifically in painting and photography. Soon enough, Saint Elmo welcomed resident artists to expand the diversity and types of pieces created at the Village.

With creativity at its core, Saint Elmo Village consistently emphasizes the inclusive aspects of art-making. Now under the leadership of executive director Jacqueline Sykes, the organization holds workshops and art showings tailored to the idea that all people can be creative.

Community engagement stands as a cornerstone of the Village's mission. St. Elmo offers a creative space for locals and hosts art classes, festivals, and numerous educational enrichment programs to spread love for art in the Mid-City neighborhood.

Guided by a singular phrase, "Do What You Love—Love What You Do" Saint Elmo Village has spent a half-century enriching Los Angeles. I congratulate Saint Elmo Village on its host of accolades, and I look forward to another half century of memorable milestones.

RECOGNIZING LISA WILLIAMS OF COLLEYVILLE, TEXAS FOR HER OUTSTANDING WORK

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. MARCHANT. Madam Speaker, I rise today to recognize Lisa Williams for her tireless devotion to helping victims of human trafficking overcome the many challenges they face. As a distinguished leader in the nonprofit community, Lisa has been working to counter the tragic effects of child abuse and sexual exploitation since she founded Circle of Friends: Celebrating Life, Inc. in 1999.

From the outset, Circle of Friends has collaborated with various stakeholders to fundraise and create awareness about the systemic issues that human trafficking presents to communities across the country. Under Lisa's guidance, other programs were established to further this goal, such as Living Water for Women, Living Water for Girls and the Living Water Learning Resource Center. Through these channels, Lisa has focused on providing services that are based on proven intervention and rehabilitative strategies, such as creating spaces for safe refuge, delivering therapeutic treatments, and facilitating educational and career opportunities for victims of sex trafficking.

For over twenty years, Lisa's work has enabled women and children to heal by way of an extensive network of support services. Her efforts will continue through the Circle of Friends Impact Legacy Scholarship Fund, a dollar-for-dollar, matched endowment that is administered by the Century Challenge at Boston University. The Circle of Friends scholarship fund will empower survivors of adverse sexual experiences to pursue an education and achieve self-sufficiency.

Ms. Williams's philanthropic endeavors have undoubtedly served as a beacon of hope to many. Madam Speaker, it is a pleasure to recognize the remarkable work that Lisa has produced in support of human trafficking victims. I ask all my distinguished colleagues to join me in recognizing Lisa Williams for her distinguished years of service.

PERSONAL EXPLANATION

HON. DOUG COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. COLLINS of Georgia. Madam Speaker, on Tuesday, January 28, 2020, I was absent from the vote series due to commitments in my district.

Had I been present, I would have voted NAY on Roll Call No. 25, NAY on Roll Call No. 26, and YEA on Roll Call No. 27.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the December 2019 House Budget Committee report outlining the timeline of actions taken by the Office of Management and Budget (OMB), the seemingly unprecedented step of stripping career officials of their normal role in the apportionment process, and how the OMB's actions hindered agencies' ability to obligate funds by the end of the fiscal year. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

On September 27, House Budget Chairman John Yarmuth (KY–03) and House Appropriations Chairwoman Nita Lowey (NY–17) sent a letter to the Trump administration expressing ''serious concerns'' that recent actions taken by the Office of Management and Budget (OMB) constitute unlawful impoundments and are an abuse of the authority delegated to OMB to apportion appropriations. As part of the committees' efforts to ensure Congress maintains the power of the purse, as established in the Constitution, the Chairs requested documents and answers regarding OMB's involvement in the withholding of foreign aid, including nearly $400 million in crucial security assistance funding for Ukraine.

The committees received a partial production from OMB, however, OMB failed to meet the committees' deadlines and has not provided the bulk of the documents.

SUMMARY

After careful review of the materials provided to the committees, the Chairs have become more concerned that the apportionment process has been abused to undermine Congress's constitutional power of the purse. Specifically:

1. The timeline of actions taken by OMB (as seen in the provided apportionments, which are legally binding documents) suggest a pattern of abuse of the apportionment process, OMB's authority, and current law.

2. OMB took the seemingly unprecedented step of stripping career officials of their normal role in the apportionment process and instead vesting a political appointee with that authority. This is a troubling deviation from long-standing procedures.

3. OMB's actions may have hindered agencies' ability to prudently obligate funds by the end of the fiscal year in violation of the Impoundment Control Act of 1974 (ICA), possibly creating backdoor rescissions.

TIMELINE

June 19, 2019: OMB asserts in our documents that they first inquired with the Department of Defense about the Ukraine Security Assistance Initiative (USAI).

July 18, 2019: OMB admits in our documents (and it has been reported) that they notified an interagency working group, which included DoD and the State Department, about an instruction to withhold all funds for Ukraine security assistance.

July 25, 2019 at 6:44pm ET: the first apportionment withholding $250 million in DoD funding for USAI until August 5, 2019, is signed by an OMB career official. OMB confirms in our documents that this is the first written apportionment action and states that USAI funds were not made available to DoD until September 12.

August 3, 2019: a letter apportionment signed by Michael Duffey (the OMB political appointee) withholds State/USAID foreign aid, including $26.5 million in Foreign Military Financing (FMF) funding from the FY18 appropriations act for assistance to Ukraine. The apportionment responsibility for these accounts is not returned to the career official for the remainder of the fiscal year.

August 6, 2019 at 2:22pm ET: Michael Duffey (the OMB political appointee) signs an apportionment withholding the DoD funding for USAI until August 12, 2019. The apportionment responsibility for this account is not returned to the career official for the remainder of the fiscal year.

August 9, 2019: The House (majority) and Senate (minority) Appropriations Committees write to OMB and the White House warning the Trump administration that the August 3 letter apportionment for State/USAID foreign aid may constitute an illegal impoundment of funds and urging the administration to adhere to the law and obligate

the withheld funding. Duffey signs another letter apportionment for State/USAID foreign aid, continuing to withhold the funding withheld by the August 3 Letter by releasing only about 2% of funds each day, preventing the normal spending of these funds. (DoD USAI funds continue to be withheld.)

August 19, 2019: The House (majority) and Senate (minority) Budget Committees write to OMB and the White House urging the administration to respect Congress's constitutional authority and to comply with appropriations law and the ICA, in particular as it applies to the State/USAID foreign aid withheld by Duffey.

August 29, 2019: Duffey signs another letter apportionment for the State/USAID foreign aid, continuing to withhold remaining funding previously withheld by the August 3 and August 9 letters by releasing 25% of the funds each Sunday between September 1 and September 22, preventing the normal spending of these funds. (DoD USAI funds continue to be withheld.)

September 11, 2019: A letter was sent to Congress (dated September 11, 2019) by the State Department notifying the agency's intent to obligate the $141.5 million in FMF funding for Ukraine. Following notification, the funds were held for an additional period before being released by OMB on September 27 ($115 million from the FY19 appropriations act) and September 30 ($26.5 million from the FY18 appropriations act) through apportionments also signed by Duffey.

September 12, 2019: Subsequent actions by Duffey extended the DoD USAI withholding until September 12.

September 18, 2019: The House Budget and Appropriations Committees write to OMB expressing concerns over the agency's abuse of its apportionment authorities and questions its compliance with the Antideficiency Act and the Impoundment Control Act of 1974.

September 27, 2019: The House Budget and Appropriations Committees write to OMB requesting answers and documents related to the withholding of Ukraine aid, State and USAID funds, and possible abuses of the apportionment process.

September 30, 2019: The fiscal year ends. Preliminary and public reporting from State and USAID indicates that significant amounts of the withheld FMF funding were not obligated before that deadline. Additionally, a portion of the $250 million DoD USAI funding was not obligated. The 2019 Continuing Resolution (P.L. 116–59) extended the deadline to obligate any and all of the remaining USAI funding by a full year; preliminary and public reporting from DoD indicates that amount totaled $35.2 million.

NEXT STEPS

Although the committees only received a partial production of the requested materials, OMB's responses and documentation to date confirm that the apportionment process has been misused to withhold Congressionally enacted appropriations. Increased transparency and accountability for the apportionment process would serve both Congress and the public.

As the committees consider legislative proposals and reforms to rein in OMB's abuse of its apportionment responsibilities (especially in the context of the Impoundment Control Act of 1974 and the annual appropriations acts), these findings—and the pending document requests—are key.

CONGRATULATING LIZ PAUGH ON HER RETIREMENT

HON. DANIEL MEUSER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. MEUSER. Madam Speaker, it is with great respect and appreciation that I rise today to honor Liz Paugh of Lebanon, who is retiring from the United States Department of Veterans Affairs after serving our nation's incredible veterans for over 30 years.

Ms. Paugh began her career on December 11, 1989 at the Lebanon VA Medical Center in the Nutrition and Food Service Department. While serving in this role, she took great care to ensure Veterans meals fit of their diet and any medical needs. After, she was promoted to oversee Ingredient Control at the Lebanon VA. 20 years after her career began at the Lebanon VA, she accepted a position in Network Contracting Office 4 as a Purchasing Agent where she continued to support the Lebanon VA in a different capacity, through administrative contracting support. Throughout her long and distinguished career, Ms. Paugh faithfully provided heartfelt service to our Veterans.

Although she is culminating an impressive and impactful career, I am confident that as she begins this new chapter, she will continue to be a positive influence and a dedicated member of our great community.

On behalf of the U.S. House of Representatives and the citizens of Pennsylvania's Ninth Congressional District, I ask my colleagues to join me in congratulating Ms. Paugh on her retirement and thank her for her many years of dedicated service to our Veterans and our great nation.

PERSONAL EXPLANATION

HON. JEFFERSON VAN DREW

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. VAN DREW. Madam Speaker, I was not present for the only vote series on January 28, 2020.

Had I been present, I would have voted NAY on Roll Call No. 25, Previous Question on H. Res. 811; NAY on Roll Call No. 26, H. Res. 811; and YEA on Roll Call No. 27, H.R. 4331.

HONORING JIM LYALL

HON. KEVIN HERN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KEVIN HERN of Oklahoma. Madam Speaker, I rise to honor the First District of Oklahoma's January Veteran of the Month, Jim Lyall.

A sergeant in the United States Army, Mr. Lyall honorably served our country in the Vietnam conflict. Throughout his time in the military, Mr. Lyall earned the National Defense Service Medal, the Vietnam Campaign Medal, the Vietnam Service Medal, an Army Commendation with Valor, the Good Conduct Medal, the Combat Infantryman Badge, and he received a Citation for Valor on September 27, 1968. Mr. Lyall's courageous and valorous service in the name of freedom is truly honorable.

Following his departure from the military, Jim became a tireless servant for the veterans of northeastern Oklahoma. Currently, he serves as the Veterans Outreach Coordinator for the Community Food Bank of Eastern Oklahoma, ensuring that those who have served our country have access to meals. Mr. Lyall also currently sits on the Board of Directors for the Coffee Bunker, a Tulsa non-profit, that seeks to meet veterans ''where they are'' and help them transition to family and community life following their service.

Before his retirement in 2017, Jim served at the Community Service Council beginning in 1980, retiring as the Associate Director. Mr. Lyall helped spearhead many of the programs that help to make the Community Service Council a premier service organization in Oklahoma and, in spite of his retirement, remains active with the Council. He currently serves as a Resource Member for the Community Service Council and is active in their Oklahoma Veteran Alliance program.

Jim Lyall lives a life of unmatched dedication, sacrifice, and service to our great nation. He answered the call to defend freedom across the globe and sacrificed whatever was necessary in the name of that noble cause. He continues to serve our country, community, and his fellow veterans at a high level on a daily basis. It is my honor to recognize Jim Lyall as the 1st Congressional District of Oklahoma's January Veteran of the Month.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the letter to the Office of Management and Budget questioning the Trump Administration for declaring bogus national emergencies to usurp funds Congress appropriated for military construction and counternarcotic initiatives to use for the President's border wall. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

MARCH 8, 2019.

The Hon. RUSSELL VOUGHT,
Acting Director,
Office of Management and Budget.

DEAR ACTING DIRECTOR VOUGHT: The President's announcement to spend up to $6.725 billion in additional funding for construction of a border wall or barrier came at the end of bipartisan negotiations on an agreed-to funding level of $1.375 billion for Fiscal Year (FY) 2019 for border security. The executive action plan further specified that the $6.725 billion would be used sequentially as follows: $601 million from the Treasury Forfeiture Fund, up to $2.5 billion under the Department of Defense funds transferred for Support for

Counterdrug Activities (10 U.S.C. §284), and up to $3.6 billion reallocated from Department of Defense military construction projects under the President's declaration of a national emergency (10 U.S.C. §2808). However, important budgetary details of the plan have not yet been provided, including the specific funding sources and additional authorities that would be used and the programs, projects, and activities from which funds would be diverted.

As the Article I branch, it is essential that Congress remains at the center of funding decisions, especially decisions that Congress has spent considerable time debating and negotiating. We have significant concerns with the Administration's plan, and we are frustrated by the lack of transparency from the Administration. Congress should receive adequate information to consider the use of the $6.725 billion referenced in the President's executive action plan. The executive action plan also needs to be considered in the context of fast-approaching deadlines for a budget resolution and decisions about the discretionary cap levels for the appropriations process, as well as for Article I equities more broadly. To that end, we request that you provide the following documents and information:

1. All documents prepared for or relating to meetings about or decisions by the Office of Management and Budget (OMB) Director, Acting Director, Deputy Director, Associate Director(s), Deputy Associate Director(s), or any other OMB or White House official or staff concerning the President's executive action plan to use up to $6.725 billion to build a border wall, including statements of conclusions and background materials, received or produced by OMB in relation to interagency meetings or discussions relating to the President's executive action plan.

2. All documents relating to the budgetary details of the President's executive action plan to use up to $6.725 billion to build a border wall, including information on all affected appropriations and Treasury Appropriation Fund Symbols (TAFS) by fiscal year and by program, project, or activity.

3. All documents since January 20, 2017 relating to any OMB Budget Data Request or any other OMB request to agencies to identify funding available to build a border wall or to otherwise fund border security or counterdrug activities at the border.

4. All documents relating to the authorized, planned, or intended use of the $6.725 billion prior to any consideration or determination that such amounts may be used instead to build a border wall, including all documents relating to:

a. The authorized, planned, or intended use of the ''first tranche'' of approximately $242 million to be expended under the Treasury Forfeiture Fund (TFF);

b. The authorized, planned, or intended use of the ''second tranche'' of approximately $359 million to be expended under the TFF;

c. The authorized, planned, or intended use of the approximately $2.5 billion under the Department of Defense funds transferred for Support for Counterdrug Activities under 10 U.S.C. §284;

d. The authorized, planned, or intended use of the approximately $3.6 billion reallocated from the Department of Defense military construction projects under the President's declaration of a national emergency pursuant to 10 U.S.C. §2808.

5. Any documents, including any guidance or instructions to agencies, relating to the de-obligation of funds, delay in obligation or expenditure, or any other change in the rate of obligation and expenditure involving the potential or planned use of such funds to carry out the President's executive action plan.

6. All documents relating to any spend plan for any appropriation account affected or relevant to the President's executive action plan to use up to $6.725 billion to build a border wall, including documents exchanged between or among OMB and the Department of Defense, the Department of Homeland Security, or the Department of the Treasury.

7. All documents relating to each apportionment and reapportionment for FY 2019, including department or agency requests to OMB, for each affected or relevant TAFS related to the President's executive action plan. This also includes all apportionment and reapportionment documentation for any TAFS from which funds would be contributed, to which funds would be contributed, from which transfers would be made, to which transfers would be made, in which transfers or reprogrammings would occur, or that is otherwise relevant in tallying (a) the ''$601 million'' amount described by the Administration from the TFF; (b) the ''up to $2.5 billion'' amount described by the Administration pursuant to 10 U.S.C. 284; and (c) the ''up to $3.6 billion'' amount described by the Administration pursuant to 10 U.S.C. 2808.

8. All documents relating to the legal or programmatic basis upon which OMB apportions or reapportions any TAFS to carry out the President's executive action plan, including any Administration legal opinion(s) prepared in whole or in part by, or in consultation with, OMB, the Department of Defense, the Department of Homeland Security, the Department of the Treasury, the Department of Justice, the National Security Council, or the White House Counsel's Office.

9. All documents relating to the potential, planned, or completed obligations or outlays incurred for each appropriation and TAFS or any other budget execution steps to carry out the President's executive action plan or in anticipation of potential use related to the plan.

10. All other documents relating to the President's executive action plan, including documents relating to (a) the Department of Homeland Security's identification of priorities for potential construction of a border wall and the relation to supporting the use of the armed forces, in accordance with 10 U.S.C. 2808; (b) the Department of Homeland Security's request of support from the Department of Defense pursuant to 10 U.S.C. 284 and any response from the Department of Defense; and (c) any contractual awards or modifications or any other changes to contracting to carry out the President's executive action plan.

While the President has issued a national emergency proclamation, our committees are still responsible for performing their constitutional oversight responsibilities. As such, given the speed with which we believe the Administration may be acting in response to the emergency proclamation, we request that you produce the requested documents and information no later than March 22, 2019.

We appreciate your time and attention to this urgent matter.

Sincerely,

JOHN YARMUTH,
Chairman, House Committee on the Budget.
MIKE QUIGLEY,
Chairman, House Appropriations Committee, Subcommittee on Financial Services and General Government.
NITA M. LOWEY,
Chairwoman, House Appropriations Committee.
LUCILLE ROYBAL-ALLARD,
Chairwoman, House Appropriations Committee Subcommittee on Homeland Security.

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committees' request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committees request electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committees' staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or

control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;

b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;

c. the date of disposition;

d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Four sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The Committee on the Budget majority set should be delivered to the majority staff in * * *, and the Committee on the Budget minority set should be delivered to the minority staff in * * *. The Appropriations Committee majority set should be delivered to the majority staff in * * *, and the Appropriations Committee minority set should be delivered to the minority staff in * * *. You should consult with Committee staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, ''claim of privilege'' includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committees) the Committees do not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committees (or the chairs of the Committees, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees or identified in a privilege log provided to the Committees.

DEFINITIONS

1. The term ''document'' means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (''e-mail''), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term ''document'' includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.

2. The terms ''and'' and ''or'' should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

3. The terms ''referring'' or ''relating,'' with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

4. The term ''border wall'' means a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier along the contiguous land border between the United States and Mexico, including all points of entry, including the wall described in Executive Order 13767 (Jan. 25, 2017) and the Administration Fact Sheet entitled ''President Donald J. Trump's Border Security Victory.''

5. The term ''President's executive action plan'' means and refers to the plan to build a border wall announced by the Administration involving up to approximately $6.725 billion that would be used sequentially as follows: $601 million from the Treasury Forfeiture Fund, up to $2.5 billion under the Department of Defense funds transferred for Support for Counterdrug Activities (10 U.S.C. § 284), and up to $3.6 billion reallocated from Department of Defense military construction projects under the President's declaration of a national emergency (10 U.S.C. § 2808).

6. The term ''Administration'' means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.

7. ''You'' or ''your'' means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

PERSONAL EXPLANATION

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SENSENBRENNER. Madam Speaker, due to a previously scheduled engagement, I was physically absent from the House of Representatives on January 27, 2020. On that day, I missed 2 recorded votes. Had I been present, I would have voted as follows: on Roll Call No. 23 on the Passage of H.R. 943, I would have voted Yea, and on Roll Call No. 24 on the Passage of H.R. 4704, I would have voted Yea.

HONORING THE SERVICE OF CHIEF WARRANT OFFICER DOUGLAS ENGLEN

HON. MARK E. GREEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. GREEN of Tennessee. Madam Speaker, I rise today to recognize Chief Warrant Officer Douglas Englen for his distinguished career in service to this nation.

Over the course of more than three decades in the United States Army, Chief Douglas Englen has demonstrated exceptional skill, unwavering bravery, and valor in defense of freedom. As a helicopter pilot with the 160th Special Operations Aviation Regiment, the elite unit tasked with helicopter support of special operations forces, Chief Englen has flown over 2,500 combat missions in every major U.S. conflict since Operation Desert Storm.

Chief Englen's intrepid leadership played a crucial role in many key engagements and operations, most notably Operation Neptune Spear. Englen served first as one of four key planners for this daring nighttime raid to take out Osama bin Laden, America's most wanted terrorist. During the mission, he served as the flight lead for the strike force, for which he

was awarded his second Silver Star—the U.S. military's third-highest combat decoration. Englen's adept piloting through mountainous terrain enabled the strike force to approach bin Laden's compound undetected and take out the man responsible for the deadliest terrorist attack in human history.

Englen's exploits in defense of the country have resulted in his admittance into the Army Aviation Association of America Aviation Hall of Fame—an honor he shares with accomplished Army Aviators, including his fellow Night Stalker Michael Durant and numerous Medal of Honor recipients. Prior to retirement, Mr. Englen was noteworthy for being the most decorated Army Aviator on active duty. Doug Englen is a hero to heroes.

It is altogether fitting that we honor Chief Englen as he concludes a remarkable career marked by his steadfast commitment to duty and country. He leaves the 160th SOAR with two Silver Stars, one Distinguished Service Medal, three Distinguished Flying Crosses, two Legions of Merit, two Bronze Stars, and eight Air Medals. On behalf of the United States Congress, I wish to commend Chief Englen for his faithful service to our nation, and I congratulate him on the occasion of his retirement from the United States Army.

SUPPORT FOR NO BAN ACT AND PREVENTING FUTURE DISCRIMINATORY BANS

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. JACKSON LEE. Madam Speaker, let me offer my appreciation and thanks to Congresswoman TLAIB of Michigan for anchoring an important special order on the National Origin-Based Antidiscrimination for Nonimmigrants Act or ''No Ban Act,'' legislation which terminates the Trump Administration's so-called Muslim Ban and prevents future discriminatory bans.

As a senior member of the committees on the Judiciary and on Homeland Security, and the vice-Chair of Congressional Progressive Caucus, and the Chair of the Congressional Pakistan Caucus and the Congressional Nigeria Caucus, I am proud to support the No Ban Act because it broadens Section 202(a) of the Immigrant and Nationality Act to include a nondiscrimination provision which includes protection from religious discrimination and applies to all individuals traveling to the United States.

Specifically, the No Ban Act ensures that this nondiscrimination provision applies to nonimmigrant visas, entry into the United States, or the approval or revocation of any immigration benefit.

The legislation mandates that restrictions or suspensions entry must be supported by reliable and compelling evidence and that it is tailored to the specified purpose and requires the consultation and input of the Secretary of State and Secretary of Homeland Security when suspending or restricting entry under Section 212(f).

The No Ban Act preserves the President's ability to use this authority when the Secretary of State determines, based on credible facts, that entry should be suspended or restricted to address specific acts that undermine the security or public safety of the United States or of human rights or of democratic processes or institutions or endangers international stability.

These permissible uses of Section 212(f) have been employed by previous Democratic and Republican presidents.

The No Ban Act requires specific evidence supporting the use of Section 212(f), including evidence that is connected with the duration of the suspension or restriction and requires that the suspension or restriction must be narrowly tailored to address a compelling governmental interest, using the least restrictive means possible.

Waivers for class-based restrictions and suspensions must be considered and the bill provides that there is a rebuttable presumption in favor of family-based and humanitarian waivers.

The bill repeals the unilateral executive actions and three Muslim ban executive orders and presidential proclamations that have harmed the Muslim American community and damaged our standing in the world.

I also approve the legislation's repeal of the Trump executive order that instituted extreme vetting for refugees, as well as an asylum presidential proclamation that abused the Section 212(f) authority.

Another salutary aspect of the bill is that it ensures there will be congressional consultation and periodic reporting for any future use of Section 212(f) to ensure that Congress has data on visa applications and refugee admissions to conduct critical oversight.

If a briefing is not provided within 48 hours and updated every 30 days thereafter, the emergency suspension or action will terminate absent congressional action.

Finally, the No Ban Act requires backward-looking reporting on how each of the executive orders and presidential proclamations was implemented to ensure a complete reckoning.

Given the harm created by the Muslim Ban upheld by the Supreme Court in its 5–4 decision in Trump v. Hawaii, 585 U.S. ——, No. 17–965 (June 26, 2018), is it any wonder that the NO BAN Act enjoys broad support from nearly 400 civil rights, faith-based, and community organizations, as well as the legal community, the ACLU, the National Immigration Law Center, the NAACP, the Leadership Conference on Civil and Human Rights, Church World Service, Amnesty International, and the International Refugee Assistance Project.

It is useful to review how we got to this point.

During the 2016 presidential campaign, then-candidate Donald Trump pledged at a political rally in Mount Pleasant, South Carolina that, if elected, he would ban Muslims from entering the United States and was ''calling for a total and complete shutdown of Muslims entering the United States.''

On January 27, 2017, as President, Trump signed Executive Order No. 13,769 (EO–1), which, among other things, suspended entry for 90 days of foreign nationals from seven countries identified by Congress or the Executive as presenting heightened terrorism-related risks, which was immediately challenged and enjoined nationwide by a federal district court.

Rather than continuing to litigate the matter, the government announced that it would revoke that order and issue a new one.

On March 6, 2017, President Trump issued Executive Order No. 13,780 (EO–2), section 2(c) of EO–2 of which directed that entry of nationals from six of the seven countries designated in EO–1 be suspended for 90 days from the effective date of the order, citing a need for time to establish adequate standards to prevent infiltration by foreign terrorists.

Section 6(a) of that executive order directed that applications for refugee status and travel of refugees into the United States under the United States Refugee Admissions Program (USRAP) be suspended for 120 days from the effective date ''to review the adequacy of USRAP application and adjudication procedures'' and section 6(b) suspended the entry of any individual under USRAP once 50,000 refugees have entered the United States in fiscal year 2017.

On June 14, just before Section 2(c) of EO–2 was by its terms set to expire, President Trump issued a memorandum to Executive Branch officials declaring the effective date of each enjoined provision of EO–2 to be the date on which the injunctions in these cases ''are lifted or stayed with respect to that provision.'' The government sought review in both cases, making arguments both on the merits of the cases and on procedural issues.

On September 24, 2017, the President issued a Proclamation restricting travel to the United States by citizens from eight countries, which along with the previous executive orders was struck down by the Ninth Circuit before the United States Supreme Court granted certiorari and reversed the lower court by the narrow 5-4 margin.

Let me share a story of how the President's Muslim Ban affects people in real life, living in the real world, one of whom lived in my congressional district.

A few days after the first Muslim Ban was issued on January 27, 2017, I got a call to go to the George Bush Intercontinental Airport in my district.

ICE had detained a Katy High School student from Jordan following President Trump's immigration ban.

His name was Mohammad Abu Khadra.

He was detained in Houston at the airport and then spirited away to Chicago when he returned from his native country a day after President Donald Trump issued his immigration ban.

He was an innocent child who had gone home to renew the documents that allowed him to be in America.

They had expired after he spent a few months living in the United States with his older brother.

Mohammad Abu Khadra was just a young man who wanted to come to the United States, as many others do.

The teenager looked every bit the part of an increasingly diverse America, with hair cut stylishly short on the sides and long on top, wearing a slim-fitting shirt, buttoned up to the collar, with rolled-up jeans and a big, blue wristwatch.

His 37-year-old brother had lived in America for five years at the time.

Mohammad had been taking courses in English as a second language.

When Mohammad came to Texas on a tourist visa a few months prior, he had no trouble and had the documents required.

When he returned to renew his paperwork, he was doing exactly what was required of him.

Landing back again in Houston, however, Mohammad had been swept up needlessly in

Trump's ban which does not even include Jordan, a longtime ally of the United States.

They pulled him aside and kept asking him, "What are you doing? Where are you going? What is your business?"

The questions continued for a scared young boy thousands of miles away from home without counsel.

Mohammad told the truth about what he was doing while in the States.

At some point during the questioning, Mohammad told authorities that he was enrolled in school.

Enrolling in public school is a violation of his visa, but we do not ask students their status in the school system in Harris County.

He was taking only ESL courses—something he perhaps had not been able to explain.

Authorities held Mohammdad, questioned him without counsel and then sent him to Chicago to a detention center for an undetermined amount of time.

This is a 16-year-old boy, and this should not have happened to him.

He was a minor, the case moved from the Department of Homeland Security to Health and Human Services, which eventually released him.

The Muslim Ban was the first separation of children from their families and turned out be a harbinger of the cruelties and inhumanities to come.

That is why we need to pass H.R. 2214, the No Ban Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate of February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place and purpose of the meetings, when scheduled and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 30, 2020 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 4

10 a.m.

Committee on Commerce, Science, and Transportation

Subcommittee on Transportation and Safety

To hold hearings to examine stakeholder perspectives on trucking in America.

SH–216

FEBRUARY 5

9:30 a.m.

Committee on Veterans' Affairs

To hold hearings to examine the VA MISSION Act, focusing on the implementation of the Community Care Network.

SR–418

Commission on Security and Cooperation in Europe

To hold hearings to examine the power and purpose of parliamentary diplomacy, focusing on inter-parliamentary initiatives and the United States contribution.

CHOB–210

10 a.m.

Committee on Commerce, Science, and Transportation

To hold hearings to examine athlete safety and the integrity of U.S. Sport.

SH–216

Committee on Environment and Public Works

To hold an oversight hearing to examine the Fish and Wildlife Service.

SD–406

Committee on Finance

To hold hearings to examine the nominations of Kipp Kranbuhl, of Ohio, to be an Assistant Secretary of the Treasury, Sarah C. Arbes, of Virginia, to be an Assistant Secretary of Health and Human Services, and Jason J. Fichtner, of the District of Columbia, to be a Member of the Social Security Advisory Board.

SD–215

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S645–S691

Measures Considered:

Impeachment of President Trump: Senate, sitting as a Court of Impeachment, continued consideration of the articles of impeachment against Donald John Trump, President of the United States. **Pages S645–91**

Senate will continue consideration of the articles of impeachment against President Trump, on Thursday, January 30, 2020. **Page S691**

Adjournment: Senate convened at 1:13 p.m. and adjourned at 11:05 p.m., until 1 p.m. on Thursday, January 30, 2020. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S691.)

Committee Meetings

(Committees not listed did not meet)

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Committee on Environment and Public Works: Committee concluded a hearing to examine stakeholder perspectives on the importance of the Chemical Safety and Hazard Investigation Board, after receiving testimony from Chris Jahn, American Chemistry Council, Washington, D.C.; Shakeel H. Kadri, Center for Chemical Process Safety, New York, New York, on behalf of the American Institute of Chemical Engineers; and Steve Sallman, United Steelworkers, Pittsburgh, Pennsylvania.

BUSINESS MEETING

Committee on Veterans' Affairs: Committee ordered favorably reported the following business items:

S. 785, to improve mental health care provided by the Department of Veterans Affairs, with an amendment in the nature of a substitute;

S. 2336, to improve the management of information technology projects and investments of the Department of Veterans Affairs;

S. 2864, to require the Secretary of Veterans Affairs to carry out a pilot program on information sharing between the Department of Veterans Affairs and designated relatives and friends of veterans regarding the assistance and benefits available to the veterans, with an amendment in the nature of a substitute;

S. 524, to establish the Department of Veterans Affairs Advisory Committee on Tribal and Indian Affairs;

S. 2594, to amend title 5, United States Code, to modify certain requirements with respect to service and retirement for the purposes of veterans' preference for Federal hiring;

S. 850, to extend the authorization of appropriations to the Department of Veterans Affairs for purposes of awarding grants to veterans service organizations for the transportation of highly rural veterans, with an amendment in the nature of a substitute;

S. 3110, to direct the Comptroller General of the United States to conduct a study on disability and pension benefits provided to members of the National Guard and members of reserve components of the Armed Forces by the Department of Veterans Affairs;

S. 123, to require the Secretary of Veterans Affairs to enter into a contract or other agreement with a third party to review appointees in the Veterans Health Administration who had a license terminated for cause by a State licensing board for care or services rendered at a non-Veterans Health Administration facility and to provide individuals treated by such an appointee with notice if it is determined that an episode of care or services to which they received was below the standard of care;

S. 450, to require the Secretary of Veterans Affairs to carry out a pilot program to expedite the onboarding process for new medical providers of the Department of Veterans Affairs, to reduce the duration of the hiring process for such medical providers, with an amendment in the nature of a substitute;

S. 3182, to direct the Secretary of Veterans Affairs to carry out the Women's Health Transition Training pilot program through at least fiscal year 2020, with an amendment; and

The nomination of Grant C. Jaquith, of New York, to be a Judge of the United States Court of Appeals for Veterans Claims.

INTELLIGENCE

Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

SOCIAL SECURITY IMPERSONATION SCAM

Special Committee on Aging: Committee concluded a hearing to examine protecting seniors from the Social Security Impersonation Scam, after receiving testimony from Andrew Saul, Commissioner, and Gail S. Ennis, Inspector General, both of the Social Security Administration; Justin Groshon, Saco Social Security Office, Saco, Maine, on behalf of the National Council of Social Security Management Associations; Nora Dowd Eisenhower, Mayor's Commission on Aging, Philadelphia, Pennsylvania; and Machel Andersen, Ogden, Utah.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 16 public bills, H.R. 5699–5714, were introduced.

Page H712

Additional Cosponsors: **Pages H713–14**

Reports Filed: There were no reports filed today.

Speaker: Read a letter from the Speaker wherein she appointed Representative Cuellar to act as Speaker pro tempore for today. **Page H637**

Recess: The House recessed at 10:35 a.m. and reconvened at 12 noon. **Page H643**

Guest Chaplain: The prayer was offered by the Guest Chaplain, Rabbi Avraham Hakohen Romi Cohn, Congregation Adas Yereim Vien, Brooklyn, NY. **Page H644**

Recess: The House recessed at 4:27 p.m. and reconvened at 5:59 p.m. **Page H697**

Meeting Hour: Agreed by unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, January 30th. **Page H697**

Student Borrower Credit Improvement Act: The House passed H.R. 3621, to amend the Fair Credit Reporting Act to remove adverse information for certain defaulted or delinquent private education loan borrowers who demonstrate a history of loan repayment, by a yea-and-nay vote of 221 yeas to 189 nays, Roll No. 31. **Pages H653–97, H697–H701**

Rejected the Hill (AR) motion to recommit the bill to the Committee on Financial Services with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 201 yeas to 208 nays, Roll No. 30.

Pages H698–H700

Pursuant to the Rule, an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116–47, modified by the amendment printed in part A of H. Rept. 116–383, shall be considered as adopted in the House and in the Committee of the Whole, in lieu of the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. **Pages H661–81**

Agreed to:

DeSaulnier amendment (No. 1 printed in part B of H. Rept. 116–383) that requires the GAO to study how credit scores are used in rental housing and mortgage determinations, including information on treatment of different demographic populations; **Pages H681–82**

Shalala amendment (No. 2 printed in part B of H. Rept. 116–383) that requires the GAO to study how credit scores adversely impacted by a student borrowers defaulted or delinquent private education loan further impacts applying for future loans, including information on treatment of different demographic populations; **Page H682**

Timmons amendment (No. 3 printed in part B of H. Rept. 116–383) that requires GAO to carry out a study of the compliance by consumer reporting agencies that compile and maintain files on consumers and the impact such compliance has on consumers; **Pages H682–83**

Steil amendment (No. 5 printed in part B of H. Rept. 116–383) that clarifies that a person's credit report may be used if the report is obtained in connection with a background check or related investigation of financial information that is required by a federal, state, or local law or regulation; **Page H685**

Gottheimer amendment (No. 6 printed in part B of H. Rept. 116–383) that stipulates that if a credit scoring agency changes their model such that it may negatively impact the credit scores for a group of consumers, then the Consumer Financial Protection Bureau has the option to review the new model and prohibit the change if they find the change is inappropriate; **Pages H685–87**

Kildee amendment (No. 7 printed in part B of H. Rept. 116–383) that expands those impacted by major disasters and emergencies to include those working in the areas; extends the grace period for individuals affected by a major disaster or emergency to up to 6 months; **Pages H687–88**

King (IA) amendment (No. 8 printed in part B of H. Rept. 116–383) that amends the date for relief on major disaster and emergency declarations to begin on the initial date of the incident period of the major disaster or emergency; **Pages H688–89**

Sánchez amendment (No. 9 printed in part B of H. Rept. 116–383) that allows for extended active duty uniformed consumers, including members of the National Guard, to dispute an adverse action or inaction on their credit report that occurred while they were in a combat zone or aboard a U.S. vessel; if a credit reporting agency has knowledge that the consumer was an extended active duty uniformed consumer at the time such action or inaction occurred, the credit reporting agency would have to promptly notify the consumer and inform them how to dispute the adverse information, and includes a budgetary offset; **Pages H689–91**

Cohen amendment (No. 10 printed in part B of H. Rept. 116–383) that creates a time period for their credit report to change after making the consecutive payments; **Pages H691–92**

Cohen amendment (No. 11 printed in part B of H. Rept. 116–383) that clarifies that credit reports cannot be used solely as the reason for denial of employment; **Pages H692–93**

Takano amendment (No. 12 printed in part B of H. Rept. 116–383) that prohibits the inclusion of arrest records on a consumer report if the consumer was not convicted for the arrest; **Pages H693–94**

Panetta amendment (No. 14 printed in part B of H. Rept. 116–383) that adds the term homelessness (as defined by the Secretary of Housing and Urban Development) as an unusual extenuating life circumstance or event that results in severe financial or personal barriers and demonstrates undue hardship; **Pages H695–97**

Clay amendment (No. 4 printed in part B of H. Rept. 116–383) that clarifies Federal law for reporting certain positive consumer credit information to CRAs, and seeks to expand access to credit through use of alternative data, (by a recorded vote of 231 ayes to 135 noes, Roll No. 28); and **Pages H683–85, H697–98**

Brown (MD) amendment (No. 13 printed in part B of H. Rept. 116–383) that reaffirms Congressional efforts to enhance cybersecurity and implement routine security updates of databases maintained by nationwide consumer reporting agencies that contain sensitive consumer data as critical to the national security of the United States; consumer reporting agencies will have to meet minimum training and ongoing certification requirements as established by the Director of The Bureau of Consumer Financial Protection, and the amendment includes a budgetary offset (by a recorded vote of 376 ayes to 38 noes, Roll No. 29). **Pages H694–95, H698**

H. Res. 811, providing for consideration of the bill (H.R. 3621) and providing for consideration of the Senate amendment to the bill (H.R. 550) was agreed to yesterday, January 28th.

Suspensions: The House agreed to suspend the rules and pass the following measure:

Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act: S. 3201, to extend the temporary scheduling order for fentanyl-related substances, by a ⅔ yea-and-nay vote of 320 yeas to 88 nays, Roll No. 32. **Pages H647–53, H701–02**

Presidential Message: Read a message from the President wherein he transmitted to Congress in accordance with the United States-Mexico-Canada Agreement the designation of emergency requirements—referred to the Committee on the Budget and ordered to be printed (H. Doc. 116–96). **Page H702**

Quorum Calls—Votes: Three yea-and-nay votes and two recorded votes developed during the proceedings and appear on pages H697–98, H698, H700, H700–01, and H701–02. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 9 p.m.

Committee Meetings

THE CONGRESSIONAL BUDGET OFFICE'S BUDGET AND ECONOMIC OUTLOOK

Committee on the Budget: Full Committee held a hearing entitled ''The Congressional Budget Office's Budget and Economic Outlook''. Testimony was heard from Phillip Swagel, Director, Congressional Budget Office.

IMPROVING SAFETY AND TRANSPARENCY IN AMERICA'S FOOD AND DRUGS

Committee on Energy and Commerce: Subcommittee on Health held a hearing entitled ''Improving Safety and Transparency in America's Food and Drugs''. Testimony was heard from public witnesses.

EMPOWERING AND CONNECTING COMMUNITIES THROUGH DIGITAL EQUITY AND INTERNET ADOPTION

Committee on Energy and Commerce: Subcommittee on Communications and Technology held a hearing entitled "Empowering and Connecting Communities through Digital Equity and Internet Adoption". Testimony was heard from Joshua Edmonds, Director of Digital Inclusion, Detroit, Michigan; Jeffrey R. Sural, Director, Broadband Infrastructure Office, North Carolina Department of Information Technology; and public witnesses.

THE COMMUNITY REINVESTMENT ACT: IS THE OCC UNDERMINING THE LAW'S PURPOSE AND INTENT

Committee on Financial Services: Full Committee held a hearing entitled "The Community Reinvestment Act: Is the OCC Undermining the Law's Purpose and Intent". Testimony was heard from Joseph M. Otting, Comptroller of the Currency, Office of the Comptroller of the Currency.

EXAMINING THE AVAILABILITY OF INSURANCE FOR NONPROFITS

Committee on Financial Services: Subcommittee on Housing, Community Development, and Insurance held a hearing entitled "Examining the Availability of Insurance for Nonprofits". Testimony was heard from public witnesses.

RESISTING ANTI-SEMITISM AND XENOPHOBIA IN EUROPE

Committee on Foreign Affairs: Subcommittee on Europe, Eurasia, Energy, and the Environment held a hearing entitled "Resisting Anti-Semitism and Xenophobia in Europe". Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Homeland Security: Full Committee held a markup on H.R. 1140, the "Rights for Transportation Security Officers Act"; H.R. 5273, the "Securing America's Ports Act"; H.R. 1494, the "HBCU Homeland Security Partnerships Act"; H.R. 5680, the "Cybersecurity Vulnerability Identification and Notification Act of 2020"; H.R. 5670, the "Transportation Security Transparency Improvement Act"; H.R. 5678, the "Privacy Office Enhancement Act"; and H.R. 5679, the "CISA Director Reform Act". H.R. 1140, H.R. 5273, H.R. 1494, H.R. 5670, H.R. 5678, and H.R. 5679 were ordered reported, as amended. H.R. 5680 was ordered reported, without amendment.

COURTS IN CRISIS: THE STATE OF JUDICIAL INDEPENDENCE AND DUE PROCESS IN U.S. IMMIGRATION COURTS

Committee on the Judiciary: Subcommittee on Immigration and Citizenship held a hearing entitled "Courts in Crisis: The State of Judicial Independence and Due Process in U.S. Immigration Courts". Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Natural Resources: Full Committee held a markup on H.R. 1049, the "National Heritage Area Act of 2019"; H.R. 1240, the "Young Fishermen's Development Act of 2019"; H.R. 2748, the "Safeguarding America's Future and Environment Act"; H.R. 2795, the "Wildlife Corridors Conservation Act of 2019"; H.R. 2956, to provide for the establishment of the Western Riverside County Wildlife Refuge; H.R. 3399, to amend the Nutria Eradication and Control Act of 2003 to include California in the program, and for other purposes; H.R. 4348, the "Protect America's Wildlife and Fish In Need of Conservation Act of 2019"; H.R. 4679, the "Climate-Ready Fisheries Act of 2019"; and H.R. 5179, the "Tribal Wildlife Corridors Act of 2019". H.R. 1049, H.R. 1240, H.R. 2748, H.R. 2795, H.R. 2956, and H.R. 3399 were ordered reported, as amended. H.R. 4348, H.R. 4679, and H.R. 5179 were ordered reported, without amendment.

75 YEARS AFTER THE HOLOCAUST: THE ONGOING BATTLE AGAINST HATE

Committee on Oversight and Reform: Full Committee held a hearing entitled "75 Years After the Holocaust: The Ongoing Battle Against Hate". Testimony was heard from public witnesses.

LOSING GROUND: U.S. COMPETITIVENESS IN CRITICAL TECHNOLOGIES

Committee on Science, Space, and Technology: Full Committee held a hearing entitled "Losing Ground: U.S. Competitiveness in Critical Technologies". Testimony was heard from Diane Souvaine, Chair, National Science Board; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Science, Space, and Technology: Subcommittee on Space and Aeronautics held a markup on H.R. 5666, the "National Aeronautics and Space Administration Authorization Act of 2020". H.R. 5666 was forwarded to the full Committee, as amended.

SBA MANAGEMENT REVIEW: OFFICE OF FIELD OPERATIONS

Committee on Small Business: Full Committee held a hearing entitled "SBA Management Review: Office

of Field Operations''. Testimony was heard from Michael A. Vallante, Associate Administrator, Office of Field Operations, Small Business Administration.

CARING FOR VETERANS IN CRISIS: ENSURING A COMPREHENSIVE HEALTH SYSTEM APPROACH

Committee on Veterans' Affairs: Full Committee held a hearing entitled ''Caring for Veterans in Crisis: Ensuring a Comprehensive Health System Approach''. Testimony was heard from Renee Oshinski, Deputy Under Secretary for Health for Operations and Management, Veterans Health Administration, Department of Veterans Affairs; Julie Kroviak, Deputy Assistant Inspector General for Healthcare Inspections, Veterans Affairs Office of Inspector General, Department of Veterans Affairs; and a public witness.

PAVING THE WAY FOR FUNDING AND FINANCING INFRASTRUCTURE INVESTMENTS

Committee on Ways and Means: Full Committee held a hearing entitled ''Paving the Way for Funding and Financing Infrastructure Investments''. Testimony was heard from Diane Gutierrez-Scaccetti, Commissioner, New Jersey Department of Transportation; and public witnesses.

Joint Meetings

HUMAN RIGHTS AND DEMOCRACY IN THE OSCE REGION

Commission on Security and Cooperation in Europe: Commission concluded a hearing to examine human rights and democracy, focusing on obstacles and opportunities in the Organization for Security and Co-operation in Europe region, after receiving testimony from Ingibjorg Solrun Gisladottir, Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights, Warsaw, Poland.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D90)*

H.R. 5430, to implement the Agreement between the United States of America, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement. Signed on January 29, 2020. (Public Law 116–113)

COMMITTEE MEETINGS FOR THURSDAY, JANUARY 30, 2020

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings to examine United States Africa Command and United States Southern Command in review of the Defense Authorization Request for fiscal year 2021 and the Future Years Defense Program, 9 a.m., SD–G50.

House

Committee on Financial Services, Task Force on Financial Technology, hearing entitled ''Is Cash Still King? Reviewing the Rise of Mobile Payments'', 9:30 a.m., 2128 Rayburn.

Next Meeting of the **SENATE**

1 p.m., Thursday, January 30

Senate Chamber

Program for Thursday: Senate will continue to sit as a Court of Impeachment to consider the articles of impeachment against President Trump.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

9 a.m., Thursday, January 30

House Chamber

Program for Thursday: Consideration of the Senate amendment to H.R. 550—Merchant Mariners of World War II Congressional Gold Medal Act.

Extensions of Remarks, as inserted in this issue

HOUSE

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