

When SSA took these anti-union actions, Mr. Black was the White House senior adviser at the Social Security Administration. Despite Mr. Black's responsibility for SSA, he claimed in a letter to me that, "I was not involved in SSA's implementation of the EOs."

It is my understanding, however, that there is a pending Freedom of Information Act request that may shed new light on Mr. Black's involvement with the Executive orders. SSA has stated that an email records search generated thousands of emails that need to be reviewed for pertinence and disclosure in response to the request, and that review is still ongoing. I certainly hope that SSA's response will confirm Mr. Black's statement that he was not involved with the Executive orders, but the Senate should wait until all the facts are in before moving forward with his confirmation.

For those reasons, I will oppose Mr. Black's nomination at this time.

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

Mr. HOEVEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from North Carolina (Mr. TILLIS).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Alabama (Mr. JONES), the Senator from Vermont (Mr. SANDERS), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

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

The result was announced—yeas 68, nays 26, as follows:

[Rollcall Vote No. 301 Ex.]

YEAS—68

Alexander	Feinstein	Murphy
Barraso	Fischer	Paul
Bennet	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hassan	Roberts
Braun	Hawley	Romney
Burr	Hoeven	Rounds
Capito	Hyde-Smith	Rubio
Cardin	Inhofe	Sasse
Carper	Isakson	Scott (FL)
Casey	Johnson	Scott (SC)
Cassidy	Kaine	Shaheen
Collins	Kennedy	Shelby
Coons	King	Sinema
Cornyn	Lankford	Sullivan
Cotton	Leahy	Thune
Cramer	Lee	Toomey
Crapo	Manchin	Warner
Cruz	McConnell	Wicker
Daines	McSally	Wyden
Enzi	Moran	Young
Ernst	Murkowski	

NAYS—26

Baldwin	Cantwell	Durbin
Blumenthal	Cortez Masto	Gillibrand
Brown	Duckworth	Heinrich

Hirono	Peters	Stabenow
Klobuchar	Reed	Tester
Markey	Rosen	Udall
Menendez	Schatz	Van Hollen
Merkley	Schumer	Warren
Murray	Smith	

NOT VOTING—6

Booker	Jones	Tillis
Harris	Sanders	Whitehouse

The nomination was confirmed.

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

The Senator from Texas.

## LEGISLATIVE SESSION

### MORNING BUSINESS

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

### PRIME MINISTER NARENDRA MODI

Mr. CORNYN. Mr. President, on Sunday I had the great honor of joining President Trump in welcoming Prime Minister Modi to the Lone Star State in an event that was appropriately named "Howdy, Modi."

When his trip was announced, people on the west coast and the east coast wondered, "Why Texas?" They thought, maybe, he would go to Silicon Valley to talk to Big Tech executives or spend some time in Washington hobnobbing with diplomats and legislative leaders. Those are great places to visit, but Houston is the energy capital of the world. It is providing literal fuel for our growing relationship with the Nation of India.

After nearly a four-decade ban on U.S. crude oil exports was lifted, Texas sent the first American crude oil to India, and today India is increasingly running on American natural gas. The reason that is important is, when I visited India for the first time in 2004, I witnessed a country that is a study in contrast—some highly populated areas like Delhi and others, and then rural areas on the way to the Taj Mahal in Agra, you can see people literally living off the land and using dried cow manure as fuel for their food and for warmth. Obviously, India needs access to affordable energy that America—and Texas, in particular—can provide to help improve their standard of living.

This trade is also vital to our economy in Texas, and we will keep exporting our greatest natural resource to our friends in India and around the world as a result of the energy renaissance we have seen and as a result of the use of unconventional extraction techniques like fracking and horizontal drilling.

Those must sound like foreign words to people in Washington, DC, who think we ought to be able to live on solar panels and windmills exclusively, but I always say, as important as renewable energy is—and it is important—Texas generates the most electricity for any State in the Nation from wind turbines. The wind doesn't always blow and the Sun doesn't always shine, and you need some sort of baseload to try to keep the electricity flowing so people can be afforded the comforts of life and particularly in hot Texas summers make sure the air-conditioner continues to work.

For as deep as our economic ties are, our cultural ties are just as strong. Texas is home to a vibrant Indian diaspora, with more than 150,000 Indian Americans living in the Houston area alone and perhaps about half a million across our entire State. I was glad the Prime Minister had a chance to witness the Indian culture that is woven into the fabric of our State and meet a number of proud Indian Americans, including the 50,000 who showed up for the "Howdy, Modi" events in Houston on Sunday, from 48 States, I am told.

Knowing the importance of a strong U.S.-India relationship, 15 years ago I cofounded the U.S.-India Caucus in the Senate. That was at the request of one of my constituents who founded one of the Indo-American Chambers in the metroplex in Dallas, TX, years ago. He is the one who encouraged my wife and I to travel to India in the first place, where I learned a lot about the country—the study in contrasts I mentioned but also that this is the world's largest democracy, and we shared so many values with that country because of our common English heritage and particularly our respect for the rule of law and use of the English language predominantly.

We also saw the advantage of collaborating with India economically—1.3 billion people—a great market for the things we make and grow in the United States and a great way to raise the standard of living in India as we deepen our ties militarily and from a national security standpoint. The difference between today and what things were like as recently as 2008, in terms of trade, is just like night and day.

In 2016, the United States designated India as a "major defense partner," with the goal of elevating our partnership with India to the same level as those of our other closest allies.

Since then, we have taken a number of steps to strengthen our defense relationship, such as establishing ministerial dialogue, increasing arms sales to India, and the first U.S.-India triservice exercise later this year. We have made real progress, but there is more we can do to ensure that our efforts are aligned, just as our interests are aligned. Particularly as China is on the march, having a strong and vibrant economy and a strong defense partner in India is more important than ever.

Earlier this year, I also introduced an amendment to the National Defense

Authorization Act, which requires the Secretary of Defense to submit a report on U.S.-India defense cooperation in the Western Indian Ocean within 180 days of enactment.

It will allow us to get a clearer picture of current military activities and will enable the Secretary of Defense to enter into military cooperation agreements and conduct regular joint military training and operations with India in the Western Indian Ocean. This would be a major step to bolster our relationship and strengthen our defense cooperation.

I am hopeful this provision will ultimately be included in the Defense authorization bill that is now going through the conference committee between the House and the Senate, and I am optimistic we will be able to get the President's signature and see this critical legislation enacted into law.

(Ms. MCSALLY assumed the Chair.)

#### TROPICAL STORM IMELDA

Madam President, briefly, on one other matter, Tropical Storm Imelda made landfall in Southeast Texas last week and dumped massive amounts of rain all across the region.

It is just 2 years after Hurricane Harvey, which is a more familiar name to people up here in DC, but the scenes are heartbreakingly similar. It wasn't the high winds so much as it was the incredible amount of water that was dumped into the Houston area and the surrounding counties. Neighborhood streets began to look more like rivers than roads. Folks were wading in the water, carrying children on their shoulders, and personal belongings washed away with raging floodwaters.

We have learned before, and we were reminded again, that these storms aren't only disruptive; they are incredibly dangerous. Five people have died as a result of the storm, and hundreds more remain displaced.

Imelda was the fifth wettest tropical cyclone in the continental United States, with some areas receiving more than 3½ feet of rain in a very short period of time. But as we have learned before, these trying times seem to somehow bring out the best in people.

A group of residents in the small community of Cheek, TX, waded through chest-high water to rescue nine horses. Furniture store owner Jim McIngvale, known to all of us as "Mattress Mack," once again opened up his stores as a shelter for victims. His employees were running rescue operations, taking furniture trucks out to pick up those who had been stranded by high water. There was even a 21-year-old college student who worked all night alone at a Beaumont hotel for 32 hours straight. Not only did he singlehandedly manage a hotel, he and other guests ventured out into the flood to help distribute food and water to truckers stranded in their trucks.

I am grateful to the countless people who have helped their neighbors in big and small ways alike and who will no doubt continue supporting their communities in the months ahead.

For many Texans, this is the second time in 2 years they have had to recover from extraordinary flooding. The storm completely devastated communities throughout the southeast part of my State, and folks are just now beginning what will undoubtedly be a major cleanup effort.

With waters receding, local officials are now taking stock of the damage and moving from response to recovery. These rain events—these huge floods—are often more than any one city or one county can manage alone. It is an all-hands-on-deck moment that brings together local, State, and Federal officials, as well as nongovernmental organizations.

Governor Abbott declared a state of disaster in several counties to ensure State resources are available to local government agencies.

Last week, I spoke to many of the county judges who have jurisdiction over much of these flooded areas, the hardest hit areas, and I offered my support. I want to assure everyone who has been impacted by the storm that they are not alone and that we are committed to working together as State, local, and Federal officials to ensure that they have what they need to recover from this devastating Tropical Storm Imelda.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mrs. BLACKBURN. Madam President, I want to express to the Senator from Texas our concern and our thoughts for all of those who have been so impacted.

#### DIGITAL RESPONSIBILITY

Madam President, the Senator from Texas mentioned the floods and the impact that had happened. I found out about some of the good work of the Good Samaritans in the area by watching what was taking place on social media, and I am certain millions of Americans saw firsthand some of the generosity and the help that was given there.

Indeed, the internet and social media platforms have transformed the way we communicate, the way we send out information, and many times the way we receive it. Correspondence that, just a few years ago, would have taken pen, paper, and postage is now sent and received with a simple click of a mouse.

Everything happens online, from communicating about disasters to shopping to party planning and to campaigning. We share photos and milestones with our "friends." We let people know that we are OK in times of disasters or that we need help. We share all of this not only with our friends, but we are also sharing it with companies that have built multibillion-dollar empires based on their ability to convince us to surrender just one more little piece of unique data about us or about our families.

Beyond social media, we live our everyday transactional lives online also. We bank via apps. We sign up for credit

cards using codes we have received in an email and manage our finances with cloud-based software. Information we once would have locked securely in a desk drawer, we now plug into an online forum without ever giving it a second thought.

We have contributed to our own, as I call it, "virtual you"; that is, our personal online footprint unique to us, unique only to us. We have done this by trusting these platforms to keep our data secure. In a way, this level of connectivity and trust has made life a lot easier and more convenient, but it has also made us vulnerable to exploitation and exposure.

I have spoken before about consumers' justifiable expectation of a right to privacy online. This year, I introduced the BROWSER Act, which I had previously introduced when I was in the House. It is an effort to codify this right to privacy that consumers expect. BROWSER gives Big Tech basic guidelines to follow when collecting and selling user data, and that user is you.

It has become understood that you are the product when you are using these social media apps and experiencing this connectivity. You are the product. You have the right to know that you are that product, and you have the right to decide what is shared about your life. But protecting an individual's data is only part of this picture.

Last week, the Senate Committee on Commerce, Science, and Technology held a hearing to address the role that digital services play in the distribution of violent and extremist content. We welcomed testimony from Facebook, Twitter, and Google, detailing what they are doing to remove extremist content on platforms.

I will tell you, before we talk about policing content, we, as Members of this body, need to make sure we understand how the American people view their use of social media and the internet.

Whether social media platforms should be regulated under the First Amendment is beside the point. Americans view these services as open public forums, where they can speak their minds on everything from defense funding to the Emmy Awards. These consumers don't want the Wild West, nor do they want to be censored based on a content reviewer's subjective opinion. What they want is an objective cop on the beat—just as in the public square, an objective cop on the beat who is equipped to properly identify incitement, threats, and other types of speech that could put lives at risk.

This, of course, is easier said than done. In the case of Facebook, for example, that translates to creating a set of standards that 30,000 in-house engineers and analysts and 15,000 content reviewers will be able to apply—45,000 people, and that is just one platform.

There is a reason that time and again Big Tech executives look at Congress

and say “Oh, more regulatory control over the way we do business,” and it is this: Policing legitimately dangerous content is a big job, and policing “awful but lawful” content as Facebook CEO Mark Zuckerberg likes to call it, is an even bigger, more daunting task.

It takes 45,000 people to do a bare-minimum job for one company. Imagine trying to create easy-to-understand, bright-line standards that 45,000 employees will be able to digest and apply quickly enough to keep up with the flow of content. That has to be an intimidating task.

I will tell you, if those executives think the government could do a better job of deciding down to the letter what those standards should be, I think they are mistaken. Only the engineers and innovators know their companies well enough to set their own internal policies for acceptable uses of their platform, but that is not to say that I will not be taking an interest in their ideas.

We need to have a Federal standard of privacy and data security. We need to review censorship and prioritization, competition, and antitrust.

For example, Facebook is in the process of putting together a content oversight board to adjudicate users whose posts have been deemed in violation and taken down. They have pledged to make the identities of the moderators and their decisions public—barring any safety risks—and to choose a diverse panel. The biggest unanswered questions here are these: Will the moderators really reflect the American political spectrum? How will they be chosen? The American people will demand more than a promise to be fair and impartial.

As I said, government cannot make these decisions in total for Big Tech, but we can help guide them along the way by passing privacy and data security standards. This is where working groups like the Judiciary Committee's Tech Task Force come into play.

Last week, I was speaking to a group of private sector tech gurus, and I told them that the only way we will be able to move forward is if the government does more listening and they do more talking and work with us on setting these basic standards.

I stand by what I said. It is not—and should not be—Congress's job to decide in retrospect what sort of culture companies like Facebook and Twitter meant to create. It is imperative that these companies understand the American public views them as a public square, an online public square, and it is up to them to be certain that there is an objective cop on the beat.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from New Mexico.

#### DECLARATION OF NATIONAL EMERGENCY

**Mr. UDALL.** Madam President, thank you for the recognition.

The Constitution demands that “No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law.”

Like any other matter, it is Congress's power and responsibility to

determine how much taxpayer money is spent on the President's request for a border wall.

Like most Presidents, he didn't get every dollar he wanted. Now the President, through a sham national emergency declaration, is taking \$3.6 billion of funds we appropriated for military construction projects to pay for his wall. The real question is not whether the President is usurping our article I power to appropriate; he is, no doubt about it. The real question is, Will we do something about it?

Today I urge all my colleagues to vote in favor of our resolution terminating the President's national emergency declaration.

Madam President, starting off the debate, I ask unanimous consent to have printed in the RECORD the following materials: a joint declaration from former national security officials outlining why the President's border emergency does not qualify under the National Emergencies Act and a September 18, 2019, Washington Post article outlining the dire outcomes warned by the Pentagon if the military construction projects don't go forward.

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

#### JOINT DECLARATION OF FORMER UNITED STATES GOVERNMENT OFFICIALS

We, the undersigned, declare as follows:

1. We are former officials in the U.S. government who have worked on national security and homeland security issues from the White House as well as agencies across the Executive Branch. We have served in senior leadership roles in administrations of both major political parties, and collectively we have devoted a great many decades to protecting the security interests of the United States. We have held the highest security clearances, and we have participated in the highest levels of policy deliberations on a broad range of issues. These include: immigration, border security, counterterrorism, military operations, and our nation's relationship with other countries, including those south of our border.

Madeleine K. Albright, Secretary of State from 1997 to 2001; Jeremy B. Bash, Chief of Staff of the U.S. Department of Defense from 2011 to 2013; John B. Bellinger III, Legal Adviser to the U.S. Department of State from 2005 to 2009; Daniel Benjamin, Ambassador-at-Large for Counterterrorism at the U.S. Department of State from 2009 to 2012; Antony Blinken, Deputy Secretary of State from 2015 to 2017; John O. Brennan, Director of the Central Intelligence Agency from 2013 to 2017; R. Nicholas Burns, Under Secretary of State for Political Affairs from 2005 to 2008; William J. Burns, Deputy Secretary of State from 2011 to 2014; Johnnie Carson, Assistant Secretary of State for African Affairs from 2009 to 2013; James Clapper, U.S. Director of National Intelligence from 2010 to 2017; David S. Cohen, Under Secretary of the Treasury for Terrorism and Financial Intelligence from 2011 to 2015; Eliot A. Cohen, Counselor of the U.S. Department of State from 2007 to 2009; Ryan Crocker, U.S. Ambassador to Afghanistan from 2011 to 2012; Thomas Donilon, National Security Advisor to the President from 2010 to 2013; Jen Easterly, Special Assistant to the President and Senior Director for Counterterrorism from 2013 to 2016; Nancy Ely-Raphel, Senior Adviser to the Secretary of State and Director of the Office to Monitor and Combat Trafficking in Persons from 2001 to 2003; Daniel P. Erikson, Special Advisor for Western

Hemisphere Affairs to the Vice President from 2015 to 2017; John D. Feeley, U.S. Ambassador to Panama from 2015 to 2018; Daniel F. Feldman, Special Representative for Afghanistan and Pakistan at the U.S. Department of State from 2014 to 2015; Jonathan Finer, Chief of Staff to the Secretary of State from 2015 to 2017.

Jendayi Frazer, Assistant Secretary of State for African Affairs from 2005 to 2009; Suzy George, Executive Secretary and Chief of Staff of the National Security Council from 2014 to 2017; Phil Gordon, Special Assistant to the President and White House Coordinator for the Middle East, North Africa and the Gulf from 2013 to 2015; Chuck Hagel, Secretary of Defense from 2013 to 2015; Avril D. Haines, Deputy National Security Advisor to the President from 2015 to 2017; Luke Hartig, Senior Director for Counterterrorism at the National Security Council from 2014 to 2016; Heather A. Higginbottom, Deputy Secretary of State for Management and Resources from 2013 to 2017; Roberta Jacobson, U.S. Ambassador to Mexico from 2016 to 2018; Gil Kerlikowske, Commissioner of Customs and Border Protection from 2014 to 2017; John F. Kerry, Secretary of State from 2013 to 2017; Prem Kumar, Senior Director for the Middle East and North Africa at the National Security Council from 2013 to 2015; John E. McLaughlin, Deputy Director of the Central Intelligence Agency from 2000 to 2004; Lisa O. Monaco, Assistant to the President for Homeland Security and Counterterrorism from 2013 to 2017; Janet Napolitano, Secretary of Homeland Security from 2009 to 2013; James D. Nealon, Assistant Secretary for International Engagement at the U.S. Department of Homeland Security from 2017 to 2018; James C. O'Brien, Special Presidential Envoy for Hostage Affairs from 2015 to 2017; Matthew G. Olsen, Director of the National Counterterrorism Center from 2011 to 2014; Leon E. Panetta, Secretary of Defense from 2011 to 2013; Anne W. Patterson, Assistant Secretary of State for Near Eastern Affairs from 2013 to 2017; Thomas R. Pickering, Under Secretary of State for Political Affairs from 1997 to 2000. He served as U.S. Permanent Representative to the United Nations from 1989 to 1992; Amy Pope, Deputy Homeland Security Advisor and Deputy Assistant to the President from 2015 to 2017.

Samantha J. Power, U.S. Permanent Representative to the United Nations from 2013 to 2017; Jeffrey Prescott, Deputy National Security Advisor to the Vice President from 2013 to 2015; Nicholas Rasmussen, Director of the National Counterterrorism Center from 2014 to 2017; Alan Charles Raul, Vice Chairman of the Privacy and Civil Liberties Oversight Board from 2006 to 2008; Dan Restrepo, Special Assistant to the President and Senior Director for Western Hemisphere Affairs at the National Security Council from 2009 to 2012; Susan E. Rice, National Security Advisor to the President from 2013 to 2017; Anne C. Richard, Assistant Secretary of State for Population, Refugees, and Migration from 2012 to 2017; Eric P. Schwartz, Assistant Secretary of State for Population, Refugees, and Migration from 2009 to 2011; Andrew J. Shapiro, Assistant Secretary of State for Political-Military Affairs from 2009 to 2013; Wendy R. Sherman, Under Secretary of State for Political Affairs from 2011 to 2015; Vikram Singh, Deputy Special Representative for Afghanistan and Pakistan from 2010 to 2011; Dana Shell Smith, U.S. Ambassador to Qatar from 2014 to 2017; Jeffrey H. Smith, General Counsel of the Central Intelligence Agency from 1995 to 1996; Jake Sullivan, National Security Advisor to the Vice President from

2013 to 2014; Strobe Talbott, Deputy Secretary of State from 1994 to 2001; Linda Thomas-Greenfield, Assistant Secretary for the Bureau of African Affairs from 2013 to 2017; Arturo A. Valenzuela, Assistant Secretary of State for Western Hemisphere Affairs from 2009 to 2011.

2. On February 15, 2019, the President declared a “national emergency” for the purpose of diverting appropriated funds from previously designated uses to build a wall along the southern border. We are aware of no emergency that remotely justifies such a step. The President’s actions are at odds with the overwhelming evidence in the public record, including the administration’s own data and estimates. We have lived and worked through national emergencies, and we support the President’s power to mobilize the Executive Branch to respond quickly in genuine national emergencies. But under no plausible assessment of the evidence is there a national emergency today that entitles the President to tap into funds appropriated for other purposes to build a wall at the southern border. To our knowledge, the President’s assertion of a national emergency here is unprecedented, in that he seeks to address a situation: (1) that has been enduring, rather than one that has arisen suddenly; (2) that in fact has improved over time rather than deteriorated; (3) by reprogramming billions of dollars in funds in the face of clear congressional intent to the contrary; and (4) with assertions that are rebutted not just by the public record, but by his agencies’ own official data, documents, and statements.

3. Illegal border crossings are near forty-year lows. At the outset, there is no evidence of a sudden or emergency increase in the number of people seeking to cross the southern border. According to the administration’s own data, the numbers of apprehensions and undetected illegal border crossings at the southern border are near forty-year lows. Although there was a modest increase in apprehensions in 2018, that figure is in keeping with the number of apprehensions only two years earlier, and the overall trend indicates a dramatic decline over the last fifteen years in particular. The administration also estimates that “undetected unlawful entries” at the southern border “fell from approximately 851,000 to nearly 62,000” between fiscal years 2006 to 2016, the most recent years for which data are available. The United States currently hosts what is estimated to be the smallest number of undocumented immigrants since 2004. And in fact, in recent years, the majority of currently undocumented immigrants entered the United States legally, but overstayed their visas, a problem that will not be addressed by the declaration of an emergency along the southern border.

4. There is no documented terrorist or national security emergency at the southern border. There is no reason to believe that there is a terrorist or national security emergency at the southern border that could justify the President’s proclamation.

a. This administration’s own most recent Country Report on Terrorism, released only five months ago, found that “there was no credible evidence indicating that international terrorist groups have established bases in Mexico, worked with Mexican drug cartels, or sent operatives via Mexico into the United States.” Since 1975, there has been only one reported incident in which immigrants who had crossed the southern border illegally attempted to commit a terrorist act. That incident occurred more than twelve years ago, and involved three brothers from Macedonia who had been brought into the United States as children more than twenty years earlier.

b. Although the White House has claimed, as an argument favoring a wall at the south-

ern border, that almost 4,000 known or suspected terrorists were intercepted at the southern border in a single year, this assertion has since been widely and consistently repudiated, including by this administration’s own Department of Homeland Security. The overwhelming majority of individuals on terrorism watchlists who were intercepted by U.S. Customs and Border Patrol were attempting to travel to the United States by air; of the individuals on the terrorist watchlist who were encountered while entering the United States during fiscal year 2017, only 13 percent traveled by land. And for those who have attempted to enter by land, only a small fraction do so at the southern border. Between October 2017 and March 2018, forty-one foreign immigrants on the terrorist watchlist were intercepted at the northern border. Only six such immigrants were intercepted at the southern border.

5. There is no emergency related to violent crime at the southern border. Nor can the administration justify its actions on the grounds that the incidence of violent crime on the southern border constitutes a national emergency. Factual evidence consistently shows that unauthorized immigrants have no special proclivity to engage in criminal or violent behavior. According to a Cato Institute analysis of criminological data, undocumented immigrants are 44 percent less likely to be incarcerated nationwide than are native-born citizens. And in Texas, undocumented immigrants were found to have a first-time conviction rate 32 percent below that of native-born Americans; the conviction rates of unauthorized immigrants for violent crimes such as homicide and sex offenses were also below those of native-born Americans. Meanwhile, overall rates of violent crime in the United States have declined significantly over the past 25 years, falling 49 percent from 1993 to 2017. And violent crime rates in the country’s 30 largest cities have decreased on average by 2.7 percent in 2018 alone, further undermining any suggestion that recent crime trends currently warrant the declaration of a national emergency.

6. There is no human or drug trafficking emergency that can be addressed by a wall at the southern border. The administration has claimed that the presence of human and drug trafficking at the border justifies its emergency declaration. But there is no evidence of any such sudden crisis at the southern border that necessitates a reprogramming of appropriations to build a border wall.

a. The overwhelming majority of opioids that enter the United States across a land border are carried through legal ports of entry in personal or commercial vehicles, not smuggled through unauthorized border crossings. A border wall would not stop these drugs from entering the United States. Nor would a wall stop drugs from entering via other routes, including smuggling tunnels, which circumvent such physical barriers as fences and walls, and international mail (which is how high-purity fentanyl, for example, is usually shipped from China directly to the United States).

b. Likewise, illegal crossings at the southern border are not the principal source of human trafficking victims. About two-thirds of human trafficking victims served by non-profit organizations that receive funding from the relevant Department of Justice office are U.S. citizens, and even among non-citizens, most trafficking victims usually arrive in the country on valid visas. None of these instances of trafficking could be addressed by a border wall. And the three states with the highest per capita trafficking reporting rates are not even located along the southern border.

7. This proclamation will only exacerbate the humanitarian concerns that do exist at the southern border. There are real humanitarian concerns at the border, but they largely result from the current administration’s own deliberate policies towards migrants. For example, the administration has used a “metering” policy to turn away families fleeing extreme violence and persecution in their home countries, forcing them to wait indefinitely at the border to present their asylum cases, and has adopted a number of other punitive steps to restrict those seeking asylum at the southern border. These actions have forced asylum-seekers to live on the streets or in makeshift shelters and tent cities with abysmal living conditions, and limited access to basic sanitation has caused outbreaks of disease and death. This state of affairs is a consequence of choices this administration has made, and erecting a wall will do nothing to ease the suffering of these people.

8. Redirecting funds for the claimed “national emergency” will undermine U.S. national security and foreign policy interests. In the face of a nonexistent threat, redirecting funds for the construction of a wall along the southern border will undermine national security by needlessly pulling resources from Department of Defense programs that are responsible for keeping our troops and our country safe and running effectively.

a. Repurposing funds from the defense construction budget will drain money from critical defense infrastructure projects, possibly including improvement of military hospitals, construction of roads, and renovation of on-base housing. And the proclamation will likely continue to divert those armed forces already deployed at the southern border from their usual training activities or missions, affecting troop readiness.

b. In addition, the administration’s unilateral, provocative actions are heightening tensions with our neighbors to the south, at a moment when we need their help to address a range of Western Hemisphere concerns. These actions are placing friendly governments to the south under impossible pressures and driving partners away. They have especially strained our diplomatic relationship with Mexico, a relationship that is vital to regional efforts ranging from critical intelligence and law enforcement partnerships to cooperative efforts to address the growing tensions with Venezuela. Additionally, the proclamation could well lead to the degradation of the natural environment in a manner that could only contribute to long-term socioeconomic and security challenges.

c. Finally, by declaring a national emergency for domestic political reasons with no compelling reason or justification from his senior intelligence and law enforcement officials, the President has further eroded his credibility with foreign leaders, both friend and foe. Should a genuine foreign crisis erupt, this lack of credibility will materially weaken this administration’s ability to marshal allies to support the United States, and will embolden adversaries to oppose us.

9. The situation at the border does not require the use of the armed forces, and a wall is unnecessary to support the use of the armed forces. We understand that the administration is also claiming that the situation at the southern border “requires use of the armed forces,” and that a wall is “necessary to support such use” of the armed forces. These claims are implausible.

a. Historically, our country has deployed National Guard troops at the border solely to assist the Border Patrol when there was an extremely high number of apprehensions, together with a particularly low number of Border Patrol agents. But currently, even

with retention and recruitment challenges, the Border Patrol is at historically high staffing and funding levels, and apprehensions—measured in both absolute and per-agent terms—are near historic lows.

b. Furthermore, the composition of southern border crossings has shifted such that families and unaccompanied minors now account for the majority of immigrants seeking entry at the southern border; these individuals do not present a threat that would need to be countered with military force.

c. Just last month, when asked what the military is doing at the border that couldn't be done by the Department of Homeland Security if it had the funding for it, a top-level defense official responded, "[n]one of the capabilities that we are providing [at the southern border] are combat capabilities. It's not a war zone along the border." Finally, it is implausible that hundreds of miles of wall across the southern border are somehow necessary to support the use of armed forces. We are aware of no military- or security-related rationale that could remotely justify such an endeavor.

10. There is no basis for circumventing the appropriations process with a declaration of a national emergency at the southern border. We do not deny that our nation faces real immigration and national security challenges. But as the foregoing demonstrates, these challenges demand a thoughtful, evidence-based strategy, not a manufactured crisis that rests on falsehoods and fearmongering. In a briefing before the Senate Intelligence Committee on January 29, 2019, less than one month before the Presidential Proclamation, the Directors of the CIA, DNI, FBI, and NSA testified about numerous serious current threats to U.S. national security, but none of the officials identified a security crisis at the U.S.-Mexico border. In a briefing before the House Armed Services Committee the next day, Pentagon officials acknowledged that the 2018 National Defense Strategy does not identify the southern border as a security threat. Leading legislators with access to classified information and the President's own statements have strongly suggested, if not confirmed, that there is no evidence supporting the administration's claims of an emergency. And it is reported that the President made the decision to circumvent the appropriations process and reprogram money without the Acting Secretary of Defense having even started to consider where the funds might come from, suggesting an absence of consultation and internal deliberations that in our experience are necessary and expected before taking a decision of this magnitude.

11. For all of the foregoing reasons, in our professional opinion, there is no factual basis for the declaration of a national emergency for the purpose of circumventing the appropriations process and reprogramming billions of dollars in funding to construct a wall at the southern border, as directed by the Presidential Proclamation of February 15, 2019.

Respectfully submitted,

Madeleine K. Albright, Jeremy B. Bash, John B. Bellinger III, Daniel Benjamin, Antony Blinken, John O. Brennan, R. Nicholas Burns, William J. Burns, Johnnie Carson, James Clapper, David S. Cohen, Eliot A. Cohen, Ryan Crocker, Thomas Donilon, Jen Easterly, Nancy Ely-Raphel, Daniel P. Erikson, John D. Feeley, Daniel F. Feldman, Jonathan Finer.

Jendayi Frazer, Suzy George, Phil Gordon, Chuck Hagel, Avril D. Haines, Luke Hartig, Heather A. Higginbottom, Roberta Jacobson, Gil Kerlikowske, John F. Kerry, Prem Kumar, John E. McLaughlin, Lisa O. Monaco, Janet Napolitano, James D. Nealon, James C. O'Brien, Matthew G. Olsen.

Leon E. Panetta, Anne W. Patterson, Thomas R. Pickering, Amy Pope, Samantha J. Power, Jeffrey Prescott, Nicholas Rasmussen, Alan Charles Raul, Dan Restrepo, Susan E. Rice, Anne C. Richard, Eric P. Schwartz, Andrew J. Shapiro, Wendy R. Sherman, Vikram Singh, Dana Shell Smith, Jeffrey H. Smith, Jake Sullivan, Strobe Talbott, Linda Thomas-Greenfield, Arturo A. Valenzuela.

[From the Washington Post, Sept. 18, 2019]

PENTAGON HAS WARNED OF DIRE OUTCOMES IF MILITARY PROJECTS CANCELED FOR WALL DON'T HAPPEN

(By Aaron Gregg and Erica Werner)

The Pentagon warned of dire outcomes unless Congress paid for urgently needed military construction projects nationwide—the same projects that have now been canceled to fund President Trump's border wall.

The warnings are contained in Defense Department budget requests sent to lawmakers in recent years. They include potentially hazardous living conditions for troops and their families, as well as unsafe schools that would impede learning. In numerous cases, the Defense Department warned that lives would be put at risk if buildings don't meet the military's standards for fire safety or management of explosives.

Even before \$3.6 billion in construction funding was pulled to support a wall along the U.S.-Mexico border, military buildings across the country often had been neglected in favor of other priorities. The defense spending limits that took effect after a 2013 budget deal designed to end a government shutdown starved the military's construction budget for years, officials and analysts say, meaning many construction projects are long overdue.

The details in the budget documents—annual requests the Pentagon sends to Capitol Hill that are mostly public—underscore the risky trade-offs Trump made in declaring a national emergency that allowed him to divert funding for the wall.

A Pentagon spokesman did not immediately respond to a message seeking comment.

In requests to Congress over the past three years, military officials describe dilapidated World War II-era warehouses with "leaking asbestos panel roof systems," a drone pilot training facility with sinkholes and a bat infestation, explosives being stored in buildings that didn't meet safety standards and a mold-infested middle school. In numerous instances, Defense Department officials wrote that the infrastructure problems were hurting the military's readiness and impeding the department's national security mission.

Democrats and some Republicans strongly oppose the emergency declaration. The Senate is expected to vote for a second time in the coming weeks to overturn it, but Congress does not appear to have enough votes to overcome Trump's veto of such a disapproval resolution.

A list of the military construction projects being defunded to pay for the wall was released in early September. But it did not contain details of the Pentagon's explanations to Congress about why the projects were needed—and what would happen if they were not completed. The Washington Post's review of the budget documents is the first attempt to detail those Pentagon warnings.

The Post uncovered budget documents pertaining to 29 of the 43 military construction projects in the mainland United States—not including those in territories such as Puerto Rico and Guam—that are being canceled to pay for the wall. The review excluded two projects that had been canceled before the emergency authorization. Many of these doc-

uments are publicly available but have not been previously reported.

The Pentagon insists that the projects are merely being delayed, not canceled, and Republicans say they will try to "backfill" the money in question, but Democrats oppose that strategy. In recent days, the fight over the border wall money has caused angry divisions among lawmakers trying to write annual spending bills to keep the government running, raising the specter of another shutdown this year. Last winter's record-long 35-day partial government shutdown ended only after Trump declared a national emergency because Congress wouldn't give him all the money he wanted for his wall. (During his campaign, Trump repeatedly vowed that Mexico would pay for the construction.)

Congressional Democrats have rallied around the issue, decrying unsafe conditions in their home districts and nationwide.

"We see across the country—communities, military bases and people in the military—saying, 'Taking away this money hurts us,'" Minority Leader Charles E. Schumer (N.Y.) said on the Senate floor this week. "All the Democrats are asking for is to protect the troops from having their resources robbed for a border wall—resources that Congress said should go to the military."

Sen. Tim Kaine (D-Va.) said "it shocks me that, as commander in chief, [Trump] now insists that it's got to be our troops, our military families and our nation's security that have to be sacrificed for his foolishness," noting that \$77 million had been "raided" from projects in his state.

#### OMINOUS WARNINGS

This month, the Pentagon announced that 127 military construction projects stood to lose funding to pay for Trump's wall. Although Pentagon officials have expressed confidence that the projects ultimately will go forward, there is no guarantee that they will.

In many cases, the Pentagon has been ominous in describing the potential outcomes should the projects not happen.

The Air Force has been seeking a new training facility for drone pilots at Holloman Air Force Base in New Mexico because the current training facility had sinkholes and a bat infestation.

It also prevents pilot trainees from operating in a classified environment, the Air Force wrote in its publicly accessible budget request. This means trainees could not use a safety system designed to alert drone pilots to the location of ground-based personnel, as well as a separate system designed to prevent aircraft from crashing into one another.

The Air Force has been seeking a new control center at Hill Air Force Base in Utah, designed to replace a pair of "dilapidated WWII-era warehouses" used for air traffic control and mission control operations even though they have been labeled "structurally deficient" and don't meet regulations. The Air Force noted in its budget request that air traffic control equipment is at risk of being destroyed by "roof leaks from failing asbestos panel roof systems."

If the \$28 million project is not finished, the Air Force warned in 2017, service members will continue to operate in "aging dilapidated buildings that were never intended for the purpose they are now serving."

The Air National Guard has been seeking to replace the aircraft parking ramp at a New Orleans facility, which abuts a public roadway. This means munitions-loaded aircraft—which are kept on alert so they can be scrambled quickly in the event of a terrorist attack—expose the public to the "unacceptable risk" of being affected by an explosive accident, the Air Force wrote in 2018. An Air Force analysis calculated that members of

the public are inside the jets' "explosive arc" for about 3,800 hours per year as they pass by the base.

In addition, the shelters that hold the aircraft when they aren't parked on the runway are on concrete slabs that are sinking, causing pipes and electrical connections to pull loose. The shelters also did not have fire protections, the Defense Department wrote in 2018.

The Defense Department also warned that overly decentralized weapons maintenance buildings in Anniston, Ala., would continue to increase the risk of accidents because of the "unnecessary movement of artillery pieces."

The Air Force has been seeking \$41 million to repair a central heat power plant boiler at Eielson Air Force Base in Alaska. The Air Force warned in its budget justification to Congress that the boiler, installed in 1951, is expected to fail within the next several years at a base where winter temperatures can plunge as low as 65 degrees below zero. That outcome "would be devastating to facilities and the missions housed in those facilities," the Air Force said. The base could be forced to evacuate, and the facilities would then freeze and require "many millions of dollars" to make them usable again.

The system in question is one of two 1950s-era boilers that require urgent replacement at Eielson. The failure of the other one is described as "imminent" and also could force an evacuation, followed by a deep freeze that would cost millions of dollars to recover from, according to the Air Force's description from 2017.

#### 'SUBSTANDARD,' 'UNSAFE'

A different issue looms at Camp Lejeune, N.C., where medical and dental care is provided in "substandard, inefficient, decentralized and uncontrolled facilities," according to the military, which has sought congressional approval to build a new ambulatory care center on the base. Not doing so "will result in compromised readiness, uncoordinated care delivery, and inappropriate use of medical resources," the Pentagon said.

At Marine Corps Air Station Beaufort in South Carolina, the military sought funding to build a satellite fire station, without which "personnel . . . will continue to work from a significantly undersized and unsafe facility."

In another example, the military is seeking to repair a middle school at Fort Campbell in Kentucky, a project that has been championed by Senate Majority Leader Mitch McConnell (R-Ky.) and that he has vowed to protect even after its appearance on the list of installations at risk of being canceled to pay for Trump's wall.

The Pentagon described conditions at the middle school as "substandard" and told lawmakers in requesting \$62.6 million to repair it that "the continued use of deficient, inadequate, and undersized facilities that do not accommodate the current student population will continue to impair the overall education program for students."

At Joint Base Andrews in Maryland, meanwhile, construction of a much-needed new child-care center has been put on hold in favor of Trump's wall. The Pentagon notes that the facility "has suffered from sewage backups, heating, ventilation and air conditioning failures and mold and pest management issues." The upgraded facility is supposed to accommodate 165 children and staff members. As of February 2018, 115 children were on a waiting list to get in.

Joint Base Andrews is also home to the hangar that holds Air Force One. That hangar is being relocated at a cost of \$154 million to accommodate a larger Boeing model now being used for Trump. But the new hangar

displaces a specialized area designed for unloading hazardous cargo and a separate disposal range where Air Force officials could be trained to defuse bombs. The Air Force requested \$37 million for a new hazardous-cargo pad and explosive-ordnance center, but that project has been included on the list of those being canceled to pay for the barrier along the border. The Air Force One hangar project was left untouched.

As a result, a temporary facility will be provided. But not replacing the hazardous-cargo pad would cause "enduring systemic weaknesses" at the base, while the lack of an explosive-ordnance range would "adversely impact" training, which would have to happen somewhere off the base at greater cost, the military said.

Mr. UDALL. Madam President, with that, I yield to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I join my Democratic colleagues on the floor to once again speak out against this President and his administration's outrageous abuses of Executive power.

While, unfortunately, there is a myriad of Presidential abuses to which I could be referring, today, this evening, I am here to discuss two of his most recent and most egregious actions that have not only run afoul of Congress's authority and our constitutional system of checks and balances but also compromise our national security.

It began with the President making a phony national emergency declaration to bypass Congress and steal money to build his border wall under the auspices of a "crisis"—one of the President's own making—in pursuit of advancing the most anti-immigrant agenda this country has seen in generations, all manufactured to secure Federal funds to build his often-touted vanity wall on our southern border. This is a wall the American people were not supposed to pay for and that we, time and again, have indicated we do not want.

Now, one would think this extreme overreach of Executive authority alone would get our colleagues on the other side of the aisle riled up enough to defend the Constitution's system of checks and balances, but in declaring his national emergency, President Trump took his overreach one step further, ransacking critical Federal funds—taxpayer dollars—that were appropriated by Congress to fund important military construction projects and national security priorities across the country. To do what with? To put money toward building his border wall.

To be clear, instead of Federal funds going toward military infrastructure priorities such as a new pier and maintenance facility at Naval Base Kitsap in my home State of Washington that would help guide and protect our Navy's vital nuclear submarines, those funds are now going to pay for Trump's border wall.

Instead of our military using Federal funds already authorized by Congress to increase access to childcare for our servicemembers and their families, those funds are now going into paying for Trump's wall.

While this behavior from our President is predictable, it is no less wrong, underhanded, and unacceptable, and I know I am not the only one who thinks that way.

Since the President's rash move to reprogram billions of dollars from our military construction budget toward his border wall, I have heard repeatedly from constituents who are upset by this President's brazen acts of recklessness and are wondering how the President of the United States can just step over Congress to do whatever he wants with our Federal budget, especially when it is on the backs of our troops and their families.

I refuse to stand by and do nothing while this President hurts my State and so many others. Why? Because he cares more about his vanity project than our troops, the military community, or the American people.

That is why, in the coming days, I plan to introduce new legislation that will not only recoup the military construction funds that were shamefully raided for Trump's border wall but put in place new safeguards to make sure no President today or in the future can so effortlessly bypass the will of Congress to loot the Federal budget.

We need to put a check on this President, plain and simple. Right now, we can do so by standing up for Congress and our constitutional authority to set the Federal budget and pay our Nation's bills.

So I urge my colleagues to join Democrats in voting to rescind President Trump's bogus national emergency declaration, taking that first step to roll back the President's plunder and hold him accountable because as a coequal branch of our Federal Government, it is not just our job, it is our sworn duty and one this body and our Republican colleagues cannot ignore.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I agree with my distinguished colleagues from Washington State and New Mexico for what they have said.

Sometimes casting a vote on the Senate floor is just a matter of course. It is something we do routinely, often without considering the impact of that vote on the Senate as an institution, let alone our constitutional Republic as we know it, but this week's vote on President Trump's national emergency declaration is different. It is a pivotal moment in this body's history. It is a stress test of the very notion of separation of powers. The Constitution speaks of Congress as being a coequal branch of government. Well, this is going to be viewed as a moment when Congress either asserted itself as a coequal branch of government or surrendered as a subordinate to the will of a President who now claims his powers are absolute.

This is a President who has said out loud that the Constitution gives him the right to do "whatever I want as

President." It makes one wonder if the President has ever actually read the Constitution of the United States. This President is attempting to ignore the explicit will of Congress by simply declaring a national emergency to fund his "big, beautiful" wall. That is after, time and time and time again, he gave us his word that Mexico would pay for the wall.

For 3 years, he failed to convince Congress that the wall was a good idea. Even when his own party controlled both the House of Representatives and the U.S. Senate, his tweets and tantrums could not convince enough Members that his cynical campaign promise was worthy of tens of billions of dollars of taxpayers' money. He could not convince anybody, Republican or Democrat, that he was telling the truth when he said Mexico would pay for it.

So when Congress did not comply, he directed his yes-people to tell them he could fund his pet project, nonetheless, by declaring a national emergency out of thin air and stealing the money from our troops and their families.

He even admitted his national emergency declaration was a matter of political expediency rather than justified by facts. I remember him standing in the Rose Garden. He said he did not "need" to invoke a national emergency; he could "build the wall over a longer period of time," but he just wanted to do it "faster." Once again, the whims and tweets of the President were used to trample our Constitution.

President Trump's declaration of a national emergency to build his wall should offend all 100 Senators—Republicans and Democrats alike—in this body. First and foremost, he is using it to steal \$3.6 billion from critical military construction projects that would benefit our men and women in uniform and their families. This impacts 127 military construction projects, including a child development center, an elementary school, a fire and rescue station—all falling victim to his fixation on the wall. He is telling the families of our military who are living in substandard housing—some of it with mold and other damaging health conditions—that, no, you are not going to get that money you need to fix that up. I am going to put it toward my wall.

We already ask our military families to sacrifice so much to keep our country safe. Now they have to sacrifice, yet again, and to what end? To keep this President's ego safe.

Furthermore, I would note that his national emergency declaration is a transparent end-run around Congress's constitutional power of the purse. Article I, section 9 of the Constitution, which I doubt the President has ever bothered to read, states that Congress—and Congress alone—decides how to spend Americans' hard-earned tax dollars. That has been the case from the time of the founding of this country until today. It is one of the most critical checks and balances in our constitutional system. In our de-

mocracy, Presidents must respect—and normally do—the appropriations decisions of Congress but, for the first time, not this President.

I was here when Congress enacted the National Emergencies Act of 1976. When we passed it then, we assumed that any President would have enough respect for the office to invoke the extraordinary powers granted under it judiciously and only in times when there was, in fact, an emergency to be addressed.

But not this President. Where the world sees women and children seeking refuge at our southern border, he sees criminals and terrorists invading our country. Where the world sees declining border crossings—crossings have dropped steeply since June—he sees an escalating border crisis that only his wall can fix. Facts may not matter to a President willing to invent a hurricane path with a sharpie marker, but they should matter to us. We must not allow this President to invoke such sweeping powers—powers we granted to him for real emergencies—simply to address some emergency he has concocted in his head.

So this week I hope all Senators, no matter what their political background is, will think carefully about their vote on the President's national emergency declaration. I hope each of us thinks long and hard about what it would mean for our role as a coequal branch, for the separation of powers, for the Constitution, which has protected our country all these years, and what would it mean if we fail to reject this naked power grab by President Trump.

In March, 12 of my Republican friends joined Democrats in rejecting the President's emergency declaration, forcing him to override our vote with a veto. I hope every one of us tonight will go home and read the Constitution and realize what we must do. I hope more Republicans will join Democrats this time in voting aye on the joint resolution of disapproval. We must send this President a veto-proof message that Congress will rise above party to protect what is most precious in our American democracy; the Senate will stand for the Constitution above all else; that the Senate will be the conscience of the Nation, as we should be.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am pleased to join my colleagues and very much appreciate Senator UDALL's leadership on the joint resolution we are speaking to today. This is the resolution that would end the President's unconstitutional emergency declaration, which is diverting money from critical military construction projects to fund a costly and ineffective border wall.

Congress has made it abundantly clear that we did not provide funding for the President's border wall and that we don't approve of raiding military re-

sources to fund his campaign promise—which, by the way, the President vowed Mexico would pay for.

It is important to note that Congress works on a bipartisan basis to provide funding to secure the southern border. According to the Constitution, it is Congress and not the President who holds the power of the purse. Just 6 months ago, in a strong bipartisan vote, a majority of this body—59 Senators—successfully passed the resolution disapproving of the President's emergency declaration. Unfortunately, President Trump chose to veto that legislation, which is why we have brought it to the floor again for a vote.

It is imperative that this legislative body—this Senate—defend its authority as derived from the Constitution and protect funding that is vital to our troops and to our national security.

I think it is difficult to overstate the critical role military construction projects play in maintaining military readiness and supporting our national defense. Yet this administration is treating funding set aside for our national security like a slush fund.

Take military construction, for instance. At the Portsmouth Naval shipyard in New Hampshire and Maine—it is on the border between New Hampshire and Maine—any disruptions for funding in construction projects can result in costly delays to our military's carefully crafted plans to upgrade aging infrastructure. Delays in projects that support the shipyard's mission threaten to exacerbate the Navy's already high demand for submarine maintenance and the projected submarine shortfall in the coming years.

In addition, New Hampshire's National Guard readiness centers are in desperate need of modernization, and they can't afford further delays to readiness center improvements. All those projects are funded through the military construction program.

While New Hampshire's and Maine's shipyard and National Guard were spared from President Trump's latest money grab, the same can't be said for 127 other important military construction projects across this country.

The 552 middle school children at Fort Campbell in the majority leader's home State of Kentucky will have to wait for a new school as President Trump diverts construction funding to the border.

Critical projects in Virginia that would improve a cyber operations facility and replace hazardous materials in warehouses are another casualty of President Trump's political games.

The Child Development Center in Maryland, the missile field in Alaska, the weapon maintenance shop in Alabama—the list of projects that are affected by the President's unconstitutional mandate just goes on and on. It includes hundreds of millions of dollars for critical infrastructure to support the Defense Department's European Deterrence Initiative. What message does that send to our European allies

on our efforts to deter Russian aggression?

The impact of the President's actions and Congress's own complacency is painfully real to the men and women who serve our Nation. These are the same men and women who are being deprived of the resources they need to complete their mission.

Perhaps not surprising, there are now reports indicating that the Trump administration is again planning to take military construction funds appropriated by Congress to build the border wall. According to the Washington Post, you can see this pretty clearly. The administration plans to pitch its appropriations request to Congress as replenishment money to the Department of Defense for the money they took this year to fund the border wall.

A Trump administration official said:

The plan is to sell it as replenishment money. . . . Then once they got it from Congress, they would take it again.

This isn't just a one-time deal. We are talking about the administration setting us up to do this again and again. This type of deception from the administration makes funding the government extremely difficult for Congress because we can't trust—we don't know if the President is negotiating in good faith.

The Members of the legislative branch are endowed by the Constitution with the power to fund the government. We must be sure that the resources we provide in spending legislation are being used as they were intended by the Congress. This constitutional duty is particularly salient when the President has shown such a flagrant disregard for congressional intent and the constitutional separation of powers. The authority of the Congress is very clear: The power of the purse is held by the legislative branch. Those powers were enumerated for the very reason that we are here today—to shield against an overreaching Executive.

This isn't about Democrat versus Republican; this is about whether Congress votes to uphold its powers and responsibilities—powers and responsibilities that are enshrined in the Constitution. We must take action now in defense of both our Constitution and our national security.

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

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL. Madam President, I very much appreciate being joined on the floor by my colleagues at this critical time in history. Senator SHAHEEN just spoke. We also had Senator MURRAY and Senator LEAHY down here.

This issue will come to a head tomorrow. We are really at a crossroads. This

body can continue to allow the President to subvert our constitutional authority to appropriate, or we can take back our power of the purse and exercise it as the Founders intended. The issue before us is not partisan; it is constitutional. If we don't put the Constitution above party, above politics, we might as well pack up our bags and go home. The voters did not send us here to shirk our responsibilities. History will not be kind to us if we allow the Executive to run roughshod over our constitutional authority.

For the second time, we have introduced a bipartisan resolution to terminate the President's national emergency declaration along our southern border. I thank Senators COLLINS and SHAHEEN for once again joining this resolution and affirming their commitment to the Constitution.

Our first vote on this resolution in March passed 59 to 41. We had strong bipartisan support because the President's emergency declaration is clearly an end run around Congress. We have the power to bring this resolution back every 6 months. I hope we can add to our majority this time because what were once fears about a so-called emergency in March have become a stark reality in September.

While I firmly oppose the President's approach on immigration, this vote is not about whether you oppose or support that approach. In March, a Republican Senator wrote in conviction about the President's emergency declaration:

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

We all have another opportunity to stand with the Constitution and to object to a President actively diverting billions in defense funding for a political purpose. Congress, not the President, was given the power of the purse to make sure taxpayer money was spent on projects with broad public support.

We have different views in Congress, but as a whole, we have responded to the American people, and we have not appropriated all the funds the President has sought for his wall. But instead of allowing Congress to decide on spending, which is what the Constitution envisions, the President caused the longest shutdown in American history to get his wall. That 35-day shutdown caused a lot of pain and anxiety for many Federal workers and contractors and their families in New Mexico and across the Nation. When the shutdown didn't work, the President issued his emergency declaration.

If we allow this President to issue an emergency declaration to get funding for his wall, we will be setting a dangerous precedent—a precedent that could be used by future Presidents on issues my Republican colleagues surely wouldn't like.

The President is now taking \$3.6 billion from 127 military construction projects that we have approved and funded. We all know the rigor with which these projects have been vetted, scrutinized, and approved. According to the Pentagon, these projects are necessary for national security and military readiness, necessary to ensure the safety of our men and women in uniform and their children. In other words, they are not projects simply designed to fulfill a campaign slogan.

Two projects in New Mexico are on the chopping block, and both are critical. One is an \$85 million drone pilot training center at Holloman Air Force Base to replace a facility that is falling apart, and the other is a \$40 million secure information technology facility at White Sands Missile Range. Both of those are gone.

In Utah, the Air Force has sought a new control center at Hill Air Force Base to replace "structurally deficient, dilapidated World War II-era warehouses" for mission control.

In Louisiana, the Air National Guard sought to replace an aircraft parking ramp in a New Orleans facility that exposes the public to "unacceptable risks" of being impacted by an explosive accident.

In Indiana, Army servicemembers have worked in violation of safety standards for handling explosives and need additional space from munitions.

In Kentucky, the military seeks to repair substandard, deficient, inadequate, and undersized facilities at a majority school at Fort Campbell that impairs the overall education program for the children of servicemembers.

Back in March, we worried that this would happen, but now it is a reality. Our men and women in uniform and their children are paying for the wall. And if we do not stand up and stop it today, it will happen again and again. This is unacceptable, and I believe it is unlawful and unconstitutional. We here in the Senate have decided to fund these projects and others in 23 States instead of a border wall, and with good reason.

Some in Congress are calling for us to backfill 127 projects and reappropriate the funds for them. Backfilling does not solve the problem. It does not repair the constitutional violation. It only gives license to the President to continue raiding funds we have already appropriated for military construction projects. Unless we stop the emergency, the backfilled money will be subject to being raided again. If your house is robbed, it is foolish to buy new valuables without putting a new lock on the door.

Canceling these 127 projects is not just a one-off; we all know the President fully intends to keep it. It has already been reported that if the President doesn't get the \$5 billion he has requested for his wall in 2020, the administration plans to take another \$3.6 billion from the Pentagon's construction budget.

I will come back in a minute.  
I yield to the majority leader.  
The PRESIDING OFFICER. The majority leader.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. MCCONNELL. Madam President, I move to proceed to executive session to consider Calendar No. 415.

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

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Gen. John E. Hyten for appointment as Vice Chairman of the Joint Chiefs of Staff and for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility in accordance with title 10, U.S.C., sections 154 and 601: to be General.

## CLOTURE MOTION

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

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

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Gen. John E. Hyten for appointment as Vice Chairman of the Joint Chiefs of Staff and for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility in accordance with title 10, U.S.C., sections 154 and 601: to be General.

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

## LEGISLATIVE SESSION

## MORNING BUSINESS

Mr. MCCONNELL. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

## THE PHILIPPINES

Mr. LEAHY. Madam President, killings of environmental defenders are shockingly common in Latin America, Africa, and Asia. The assassination of Berta Caceres in Honduras 3 years ago, orchestrated by top officials of a hydroelectric company and carried out by

retired and Active-Duty soldiers who had received training from the United States, was emblematic of the widespread use of harassment, threats, and murder to silence those who courageously call for changes in policies and practices to protect the environment.

According to a report released today by Global Witness, the Philippines has the highest number of killings in Asia of people who oppose illegal logging, destructive mining, and corrupt agribusiness, with at least 30 cases documented in 2018. The total number is likely higher, as some investigations are ongoing. Many of the victims simply wanted a say in how their land and the country's natural resources are used. The perpetrators are almost never arrested or prosecuted.

On July 25, 2016, the Philippines' newly elected President Rodrigo Duterte delivered his first state of the nation address. He promised to safeguard the country's rural and indigenous communities, tackle corruption, and protect the environment. The results since then paint a very different and distressing picture. If President Duterte meant what he said, he has failed miserably. According to Global Witness, in the 3 years before Duterte took office at least 65 land and environmental defenders were murdered. That was appalling enough. But in the 3 years since he came to power, that number rose to 113. At least 31 of those murders were reportedly committed by the Philippine Armed Forces, whose soldiers and officers act with near total impunity.

The Philippines is a major recipient of U.S. military aid, and we are perceived by the families of the victims to be enablers of these crimes. In addition to increasing support for local environmental defenders, the Secretary of State and Administrator of the U.S. Agency for International Development should urge the Duterte government to ensure that the right to free, prior, and informed consent of those impacted by policies and practices that threaten their land and natural resources is respected. This is necessary not only to prevent the destruction of forests and farms, the pollution of watersheds, and the extinction of species, but to avoid confrontations and violence that result when extractive industries, supported by the Armed Forces and police, run roughshod over local communities.

The Secretaries of State and Defense should also ensure that those in the Philippine Armed Forces who receive our aid respect the rights of civilians and are accountable to the rule of law. When abuses occur they should be thoroughly investigated and the individuals responsible brought to justice. The Leahy Laws require that, and it is the responsibility of U.S. officials to ensure that they are enforced.

## ARMS SALES NOTIFICATION

Mr. RISCH. Madam President, section 36(b) of the Arms Export Control

Act requires that Congress receives prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

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

DEFENSE SECURITY  
COOPERATION AGENCY,  
Arlington, VA.

Hon. JAMES E. RISCH,  
Chairman, Committee on Foreign Relations,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 19-62 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of Thailand for defense articles and services estimated to cost \$400 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

CHARLES W. HOOPER,  
Lieutenant General, USA, Director.

Enclosures.

## TRANSMITTAL NO. 19-62

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of Thailand.

(ii) Total Estimated Value:  
Major Defense Equipment\*: \$300 million.  
Other: \$100 million.  
Total: \$400 million.

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment (MDE): Eight (8) AH-6i Helicopters, Light Attack-Reconnaissance.

Fifty (50) AGM-114R Hellfire.

Two-hundred (200) Advance Precision Kill Weapon System (APKWS) Rockets.

Non-MDE: Also included are ten (10) M134 Mini Guns, ten (10) M260 Rocket Launchers, ten (10) M299 Longbow Hellfire Launcher, ten (10) AN/APN-209 Radar Altimeter, eight (8) AN/APR-39(V)(4), four (4) GAU-19/B .50 Cal Machine Gun, five-hundred (500) Hydra 70 Rockets, twenty (20) AN/AVS-6 Night Vision Goggles, eight (8) WESCAM MX-10Di Cameras, ten (10) AN/APX-123 IFF, ten (10) AN/ARC 201E-VHF-FM, ten (10) AN/ARC-231 w/ MX-4027, ten (10) LN-251 Inertial Navigation System/Global Positioning System (EGI), Aircrew Trainer (ACT), Pilot Desktop Trainer (PDT), Virtual Maintenance Trainer (VMT), contractor provided pilot and maintainer training, peculiar ground support equipment, spares, publications, integrated product support, technical assistance, quality assurance team, transportation, and other related elements of logistics and program support.