

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 po-

tential, 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 Reauthor-

ization 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 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 Ex-

clusion, 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 mandatory 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 is it.

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, disproportion-

ately 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. SABLON) 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. SABLON 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