

That is why the Speaker of the House apparently saw nothing strange about celebrating the third Presidential impeachment in American history with souvenirs and posed for photographs—souvenirs and posed photographs.

That pretty well sums it up. That is what the process has been thus far, but it is not what this process will be going forward.

The Founding Fathers who crafted and ratified our Constitution knew that our Nation might sometimes fall prey to the kind of dangerous factualism and partisanship that has consumed—literally consumed the House of Representatives.

The Framers set up the Senate specifically to act as a check against the short-termism and the runaway passions to which the House of Representatives might fall victim.

Alexander Hamilton worried that “the demon of faction” would “extend his scepter” over the House majorities “at certain seasons.” That is what Alexander Hamilton said. He feared for the viability of the government established by the Constitution if, blinded by factualism, the House of Representatives would abuse the power of impeachment to serve nakedly partisan goals rather than long-term interests of the American people and their Republic, but, fortunately, they did something about it.

They did not give both the power to impeach and the power to remove to the House. They divided the power and placed the final decision on removal over here in the Senate.

This body, this Chamber, exists precisely—precisely so we can look past the daily dramas and understand how our actions will reverberate for generations; so we can put aside animal reflexes and animosity and coolly consider how to best serve our country in the long run; so we can break factional fevers before they jeopardize the core institutions of our government.

As Hamilton put it, only the Senate, with “confidence enough in its own situation,” can “preserve, unawed and uninfluenced, the necessary impartiality between an individual accused, and the representatives of the people, his accusers.”

The House’s hour is over. The Senate’s time is at hand. It is time for this proud body to honor our founding purpose.

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#### LEGISLATIVE SESSION

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##### UNITED STATES-MEXICO-CANADA TRADE AGREEMENT

Mr. MCCONNELL. Madam President, on an entirely different matter, before we turn to the trial in earnest, the Senate has one more major accomplishment to deliver to the American people.

Yesterday we began floor consideration of the most significant update to the North American trade policy in

nearly 30 years. In just a couple of hours, we are going to pass the USMCA and send it to President Trump for his signature.

It was back in 2018 when the Trump administration finalized its talks with the Governments of Mexico and Canada. This has been a major priority for the President and for many of us in both Houses of Congress.

That is because American livelihoods in every corner of every State depend on these critical trading relationships. Farmers, growers, cattlemen, manufacturers, small businesses, big businesses—this is a major step for our whole country.

In the 26 years since the ratification of NAFTA, trade with Mexico and Canada has come to directly support 12 million American jobs—12 million workers and their families who depend on robust trade with our North American neighbors. Our neighbors to the north and south purchase half a trillion dollars in American goods and services every single year. That includes more than a quarter of all the food and agricultural products we export. Take my home State of Kentucky as an example. Mexico and Canada buy \$300 million of agricultural exports from Kentucky growers and producers every year. They buy \$9.9 billion of our State’s manufacturing exports—and on and on. Commerce with our neighbors is essential across the board.

No wonder experts estimate that USMCA would create 176,000 new American jobs. No wonder they predict it will yield tens of billions of dollars in economic growth. No wonder farmers, ranchers, steelworkers, and manufacturers across our country have been so eager to see the USMCA signed, sealed, and delivered. In one recent letter, Kentucky farmers told me: “We need the agreement ratified, and we need it to happen now.”

I know my colleagues have been hearing the same thing from their home States. Republicans, Democrats, Senators, Representatives—our incoming has been the same: Get this deal passed. Failure is not an option.

Of course, for far too long, our counterparts in the House kept all these Americans waiting. It took more than a year and a lot of pressure from Senate Republicans to get the Speaker of the House to stop blocking the trade deal and finally let the House vote on it. Late last year, she finally relented. It passed by a big bipartisan margin, of course, and I now expect that kind of vote will repeat itself here in the Senate.

I am especially grateful to our colleagues and counterparts who got this across the finish line: to the U.S. Trade Representative, Bob Lighthizer, and his hard-working team, led by his chief of staff, Jamieson Greer; to Chairman GRASSLEY for leading the bipartisan effort in the Senate Finance Committee and his trade team, led by Nasim Fussell; to Ranking Member WYDEN and his trade counsel, Jayme White,

and all of our Finance Committee colleagues and staff; and to the chairmen of our other committees of jurisdiction who worked nimbly to get this done.

I want to thank the exceptional Cloakroom staff—in particular, Christopher Tuck.

I would like to thank members of my own team whose efforts were invaluable, most especially my chief economic policy council, Jay Khosla, whose role in securing this agreement has been absolutely essential; Ali Nepola in my personal office; Erica Suares and my leadership policy advisers; and, of course, their fearless leaders, Sharon Soderstrom, my chief of staff, and my deputy chief of staff for policy, Scott Raab.

Of course, I am most grateful to President Trump for prioritizing, negotiating, and delivering on this major promise. Today the Senate will send this landmark agreement to the President’s desk—a big bipartisan win. It comes the very same week as President Trump also signed phase one of his administration’s trade agreement with China—quite a week of substantive accomplishments for the Nation, for the President, and for our international trade. Both of these measures will only add to all the other Republican policies of the past 3 years that have helped generate this historically strong economic moment for working Americans and for their families.

I would urge every one of our colleagues to join me in voting to pass the USMCA.

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#### RESERVATION OF LEADER TIME

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

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#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

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#### UNITED STATES-MEXICO-CANADA AGREEMENT IMPLEMENTATION ACT—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 5430, which the clerk will report by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 5430) to implement the Agreement between the United States of America, the United Mexican States, and Canada attached as an Annex to the Protocol Replacing the North American Free Trade Agreement.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

IMPEACHMENT

Mr. SCHUMER. Madam President, this is a serious, solemn, and historic day. The events that will take place this afternoon have happened only twice before in our grand Nation's 250-year history. The Chief Justice will swear in every U.S. Senator to participate as a court of impeachment in a trial of the President of the United States.

Yesterday, the Senate received notice that the House of Representatives has two Articles of Impeachment to present. The House managers will exhibit those two articles today at noon. The first article charges the President with abuse of power: coercing a foreign leader into interfering in our elections, thereby using the powers of the Presidency, the most powerful public office in the Nation, to benefit himself rather than the public interest. The second charges the President with obstruction of Congress for an unprecedented blockade of the legislature's ability to investigate those very matters. Let me talk about each one.

The first is so serious. Some of our Republican colleagues have said—some of the President's own men have said: Yeah, he did it, but it doesn't matter; it is not impeachable. Some of them even failed to say—many of my Republican colleagues, amazingly—it is wrong.

Let me ask the American people: Do we want foreign leaders helping determine who is our President, our Senators, our Congressmen, our Governors, our legislators? That is what President Trump's argument will be: that it is OK to do that, that there is nothing wrong with it, that it is perfect.

Hardly anything is more serious than powers outside the borders of the United States determining, influencing elections inside the United States. It is bad enough to do it but even worse to blackmail a country of aid that was legally allocated to get them to do it. It is low. It is not what America has been all about.

The second charge as well. The President says he wants the truth, but he blocks every attempt to get the facts. All the witnesses we are asking for—he could have allowed them to testify in the House. They wanted them. The President is blocking.

Again, the American people—just about all of them—are asking the question: What is the President hiding? What is he afraid of? If he did nothing wrong, why didn't he let the witnesses and the documents come forward in the House of Representatives?

Put another way, the House of Representatives has accused the President of trying to shake down a foreign leader for personal gain, deliberately soliciting foreign interference in our elections—something the Founding Fa-

thers greatly feared—and then doing everything he could to cover it up.

The gravity of these charges is self-evident to anyone who is not self-interested. If proved, they are not petty crimes or politics as usual but a deep, wounding injury to democracy itself, precisely the conduct most feared by the Founders of our Constitution.

We as Senators, Democrats and Republicans, must rise to the occasion, realizing the seriousness of the charges and the solemnity of an impeachment proceeding. The beginning of the impeachment trial today will be largely ceremonial, but soon our duty will be constitutional. The constitutional duty is to conduct a fair trial, and then, as our oaths this afternoon command, Senators must "do impartial justice." Senators must "do impartial justice." The weight of that oath will fall on our shoulders. Our ability to honor it will be preserved in history.

Yesterday evening, I was gratified to hear the Republican leader, at least in part of his speech, ask the Senate to rise to the occasion. I was glad to hear him say so. For somebody who has been partisan—deeply, strongly, and almost unrelentingly partisan—for 2 months, he said something that could bring us together: The Senate should rise to the occasion.

Far more important than saying it is doing it. What does "doing it" mean? The best way for the Senate to rise to the occasion would be to retire partisan considerations and to have everyone agree on the parameters of a fair trial. The best way for the Senate to rise to the occasion would be for Democrats and Republicans to agree on relevant witnesses and relevant documents, not run the trial with votes of a slim majority, not jam procedures through, not define "rising to the occasion" as "doing things my way," which is what the majority leader has done thus far, but, rather, a real and honest and bipartisan agreement on a point we all know must be confronted: that we must—we must—have witnesses and documents in order to have a fair trial.

A trial without witnesses is not a trial. A trial without documents is not a trial. That is why every completed impeachment trial in our Nation's history—every single one that has gone to completion—15, have all included witnesses. The majority leader claims to believe in precedent. That is the precedent: witnesses. There is no deviation. Let us hope we don't have one this time.

Over the centuries, Senators have stood where we stand today, confronted with the responsibility of judging the removal of the President. They rightly concluded they were obligated to seek the truth. They were under a solemn obligation to hear the facts before rendering a final judgment.

The leader—incorrectly, in my judgment—complained the House was doing short-termism and rush. The leader is trying to do the exact same thing in the Senate. The very things he con-

demns the House Democrats for, he seems bent on doing. Condemning short-termism? Are we going to have a full trial? Condemning the rush? Are we going to allow the time for witnesses and documents or is the leader going to try to rush it through? At the very same time, out of the other side of his mouth, he condemns the House—incorrectly, in my judgment—for doing it.

Another thing about the importance of witnesses and documents, the leader has still not given a good argument about why we shouldn't have witnesses and documents. He complains about process and pens and signing ceremonies but still does not address the charges against the President and why we shouldn't have witnesses and documents.

We are waiting. Rise to the occasion. Remember the history. That is what the leader said he would do last night, and I was glad to hear it, but he must act, not talk about rising to the occasion and then doing the very same things he condemns the House for.

If my colleagues have any doubts about the case for witnesses and documents in a Senate trial, the stunning revelations this week should put those to rest. We have new information about a plot by the President's attorney and his associates to oust an American ambassador and potentially with the "knowledge and consent" of the President, pressure Ukrainian President Zelensky to announce an investigation of one of the President's political rivals. The effort to remove Ambassador Yovanovitch by Lev Parnas and Mr. Giuliani is now the subject of an official probe by the Government of Ukraine.

My friends, this information is not extraneous; it is central to the charges against the President. We have a responsibility to call witnesses and subpoena documents that will shed light on the truth here. God forbid we rush through this trial and only afterward the truth comes out.

How will my colleagues on the other side of the aisle feel if they rushed it through and then even more evidence comes out? We have seen lots come out. There has barely been a week where significant new evidence, further making the House case, hasn't come out as strong as the House case was to begin with.

Here is what Alexander Hamilton warned of in the Federalist 65. He said: "The greatest danger is that the decision [in an impeachment trial] will be regulated more by the comparative strength of parties than by the real demonstration of innocence or guilt."

Alexander Hamilton, even before the day political parties were as strong as they are today, wanted us to come together. The leader wants to do things on his own, without any Democratic input, but, fortunately, we have the right to demand votes and to work as hard as we can for a fair trial, a full trial, a trial with witnesses, a trial with documents.

The Founders anticipated that impeachment trials would always be buffeted by the winds of politics, but they gave the power to the Senate anyway because they believed the Chamber was the only place where impartial justice of the President could truly be sought.

In the coming days, these eventful and important coming days, each of us—each of us will face a choice about whether to begin this trial in search of the truth or in the service of the President's desire to cover up and rush things through. The Senate can either rise to the occasion or demonstrate that the faith of our Founders was misplaced in what they considered a grand institution. As each of us swears an oath this afternoon, let every Senator—every Senator reflect on these questions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I come to the floor of the Senate today at a moment that will be remembered in history. In just a few hours, the Chief Justice of the Supreme Court will come to this Chamber and will be sworn in as the Presiding Officer in the impeachment trial of President Donald John Trump. He will then administer an oath to each Member of the U.S. Senate. It is an oath that is included in our Senate manual. It is very brief, only 35 words, and it bears repeating for the record at this moment.

Each Senator will be asked to make the following oath and affirmation: "I solemnly swear that in all things appertaining to the trial of the impeachment of Donald John Trump, now pending, I will do impartial justice according to the Constitution and laws: so help me God."

In just 35 words, that oath binds all of us—Republicans and Democrats—who swear by that oath to do impartial justice. The Founding Fathers, and others, could have been much more elaborate in describing the process we face, but in its simplicity, this oath really tells us what we will face in the coming days.

I believe more than ever, starting on Tuesday, when the impeachment trial begins in earnest on the floor of the Senate, America will be watching. Many Americans have busy lives—personal, private, family, and professional—and don't tune in to the political events of the moment as many of us do, but I think more and more will be watching come Tuesday. They are going to see a historic moment, only the third time in history when a President of the United States faces impeachment. What will they find? Will they find an effort to do impartial justice? Will they find partisanship? Will they find a real trial?

I think it is important for us to realize that a real trial includes evidence. As a lawyer, I brought many cases to trial, a few of them to verdict. I had to prepare my case, not just my theory of the law or statement of facts but proof,

real proof that came from documents and witnesses. That is what a real trial is about. Unfortunately, on the other side, the majority leader has suggested we don't need witnesses and that it is only evidence of the weakness of the impeachment charges. I think he is wrong.

As the Democratic leader said this morning, history will prove him wrong because in impeachment trial after impeachment trial, evidence and witnesses have been presented. That is the tradition and the precedent of the U.S. Senate.

If there is an effort to short circuit that, to eliminate the witnesses and the evidence, I think it will be obvious to the American people who are following this what is underway.

In this morning's newspapers, it was reported that the President's defense team has been ready, anxious, if you will, for this impeachment trial to begin and equally anxious to end it as quickly as possible. I hope they don't prevail in that sentiment because a race to judgment may not serve the cause of impartial justice. We believe that the House managers should be allowed to make their presentation, and they will, and the President's defense team, as well. We believe that Members of the Senate should hear those arguments and then proceed to consider any additional evidence.

What kind of evidence may be relevant? As Senator SCHUMER, of New York, mentioned just a few minutes ago, it seems that every day there unfolds another chapter in this story. Every day we learn of the efforts of the President's self-described personal attorney, Rudolph Giuliani, to appeal directly to the leadership of Ukraine to initiate a political investigation of the Biden family, to serve President Trump's political interest in the 2020 Presidential campaign.

We have also heard repeatedly on the floor that there have been no allegations of anything that was illegal or criminal on the part of the President. The standard in the Constitution for impeachment does not require the violation of a Federal crime. Our Constitution was written before any statutes creating Federal crimes had been created. Rather, the phrase "high crimes and misdemeanors" was used as a standard to be imposed on the President.

But we just received information in the last 24 hours from the General Accountability Office, which does raise very serious concern about illegality of the President's action in withholding the funds appropriated by Congress to support the Ukrainian defense efforts against the invasion of Russian troops by Vladimir Putin and their country.

As a Member of the Senate Appropriations Committee, ranking member of the Defense Subcommittee, I can recall when we, on a bipartisan basis, decided to provide additional assistance to Ukraine in the form of hundreds of millions of U.S. tax dollars so that

they could defend themselves against the invasion of Vladimir Putin. That money was appropriated and we believed would be sent in a timely way to the Ukrainians to defend their own country. Little did we know that money would become part of the bargaining between President Trump and the President of Ukraine as to this political investigation. It turns out that money was withheld until the very last moment. In fact, as I was offering an amendment in the Senate Appropriations Committee, and I was told that the night before—late the night before—the President finally released the funds.

Questions were raised by Senator VAN HOLLEN to the Government Accountability Office as to whether or not it was legal or illegal for the administration to withhold those funds. We have now received the statement from the General Accountability Office. They have held that the President's withholding of funds to Ukraine violated Federal law. The Government Accountability Office has a sterling reputation as a nonpartisan watchdog with taxpayers' dollars. GAO's legal opinion today concludes that President Trump and his administration violated the law by putting a hold on military aid to Ukraine while that country was trying to defend itself against an invasion ordered by Vladimir Putin.

This is an important ruling that deserves a thorough hearing in the impeachment trial. It should be part of the evidence of wrongdoing by the President, especially as it relates to the alleged abuse of power. I also hope this ruling will convince the administration to speed the additional delivery of \$250 million in military aid, which the Congress has also sent to Ukraine.

I am going to yield the floor because I know one of my colleagues is coming to speak.

In just a few hours, this Chamber will be transformed. As we noted yesterday, at about 5:38 p.m., when the clerk of the House arrived with the Articles of Impeachment, there was a change in the atmosphere and environment of this Chamber, and I can sense it even today. We realize we are only moments away from a historic meeting of this Chamber on the issue of Presidential impeachment. When we take that oath of office, each and every one of us, swearing impartial justice, we need to remember that not only is America watching but history will hold us accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

UNITED STATES-MEXICO-CANADA TRADE AGREEMENT

Mr. WYDEN. Madam President, soon the Senate will vote on the final passage of the new North American Free Trade Agreement. I am going to make just a few remarks. I know Senator TOOMEY is here to make remarks. Later, he is going to offer, I believe, some procedural requests.

The new NAFTA is a good deal for American workers because Democrats in this body and Democrats in the other body stopped the Trump administration from going ahead with business as usual on trade enforcement. There has even been an effort by several Members on the other side in the Senate to actually block enforcement dollars. With Chairman GRASSLEY's help, we were able to prevent that.

If you write a trade agreement with weak enforcement, particularly on labor and environmental issues, my view is you sell out American workers and key industries, whether it is automobiles, whether it is technology, or whether it is manufacturing. Basically, you set up a race to the bottom on cheap wages and the treatment of labor.

I particularly want to thank Senator BROWN, my colleague from Ohio, who for decades has led the fight for tough trade enforcement. We spoke yesterday on the floor about our effort. We worked on this side of the aisle, but we reached out to a lot of Senators on the other side of the aisle as well.

I just want to give an example of what the Brown-Wyden trade enforcement package does. In the past, it would take almost to eternity to bring trade enforcement action. I spelled out yesterday how the Brown-Wyden enforcement package speeds up the timeline for tough trade enforcement by more than 300 percent. That, in my view, throws a real lifeline—an actual lifeline to communities that are worried about whether they are going to have an economic heartbeat in the days ahead.

I also wanted to mention—and I am then going to yield to my colleague, and we are going to use this time so that everybody gets a chance to make some remarks—that this is the first-ever trade agreement in which the United States locks in strong rules on digital trade and technology. Back when the first NAFTA came about, you didn't have Senators with smartphones in their pocket. You didn't have the internet as the shipping lane of the 21st century. What we did in this part of the bill, which was really bipartisan, is we protected intellectual property. We prohibited shakedowns of data belonging to innovative American companies, and I was especially involved in making sure that we drew on established U.S. law to defend the small technology entrepreneurs working to build successful companies in a field dominated by a small number of Goliaths.

These rules on technology and trade ought to be the cornerstones of our trade policy in the years ahead because those rules on technology protect every single American industry—healthcare, manufacturing, agriculture, you name it. It is how the United States also is going to fight back against authoritarian governments that use the internet as a tool to repress their own people, bully American businesses and workers, and med-

dle with the free speech rights of American citizens.

The bottom line here is that my colleague who sits right behind me, Senator BROWN, was key to producing a bill that had the provisions and the prerequisite to getting a law, frankly, with tough trade law enforcement that brought, literally, dozens of Members of both the Senate and the House over to support this. I want to thank him and wrap up by saying—I am not sure that he is with us today here in the Senate Gallery—that Ambassador Bob Lighthizer deserves a special thanks today. He may be off around the world somewhere talking to additional trade ministers, looking for other opportunities to come up with tough future-oriented trade agreements. Ambassador Lighthizer is the hardest working man in the trade agreement business. I want to thank him for all his work. I have a difference of opinion with my colleague from Pennsylvania on these issues. We may have some procedure, but I think you are going to see Senators handle these issues over the next 20 minutes in a way that reflects the seriousness of this issue.

I yield the floor.

I know the Senator from Pennsylvania will speak next.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I want to thank the ranking member of our committee for all of the work that he has put into this effort, even though I disagree in some important respects.

One thing I want to talk about this morning is the process under which we are going to consider and probably pass this legislation. We are considering this legislation under trade promotion authority. That refers to another bill—a law, actually—that we passed some time ago that expedites the process, forbids Senators from offering amendments, and allows passage of the legislation to occur with a simple majority vote—51 out of 100 instead of the usual 60-vote threshold. That is what trade promotion authority makes possible.

It seems to me that it is very important that any legislation we consider under trade promotion authority be compliant with trade promotion authority, because, if it is not, if we allow extraneous provisions, for instance, then, we are circumventing the normal legislative process, we are circumventing the 60-vote threshold, and we are abusing trade promotion authority.

One of the reasons that is so important is that this is a delegated authority. I remind my colleagues that trade policy is clearly, unambiguously assigned to Congress in the Constitution. It is our responsibility to manage trade, and legislation is obviously and undoubtedly exclusively granted to Congress in the Constitution. So our branch of government has exclusive responsibility for trade and legislating.

What do we have here? We have a piece of legislation that deals with trade. When we choose to delegate our

responsibility to the executive branch, it is very important to me that we insist that delegated authority be exercised properly and that the legislation that follows from it comply with the law.

What I want to raise is a concern about one of several—but one respect, in particular—in which the legislation we are considering today does not, in fact, comply with the trade promotion authority under which this legislation is being considered. Specifically, I am going to zero in on a certain aspect of some of the spending that occurs in this bill.

By way of background, I think it is important to know that the Senate has never passed a spending bill with a simple majority vote. I don't think that has ever happened in modern times since we established the 60-vote threshold on any piece of legislation.

We don't do discretionary appropriations with a simple majority vote because it has been the collective will of this body for decades that responsibility should occur at a 60-vote threshold and should be subject to amendments.

Not only that, but we have discretionary spending in this bill and this is the first time that any trade implementing legislation has ever spent money. Of the 17 trade bills that we have considered in recent decades under fast-track authority, none of them have ever contained any kind of appropriations, any kind of government spending. It is not that there is no spending necessary for the implementation of these other agreements. There was. Yet that spending always ran separately in a different bill, in a different piece of legislation, and that piece of legislation was subject to amendment and a 60-vote threshold.

Now, why is that?

It is in order to comply with the trade promotion authority. It is in order to comply with the conditions of granting an expedited process.

What the trade promotion authority reads, among other things, is that any provision in this implementing legislation must be strictly necessary or appropriate for the implementation of the trade agreement. Well, spending is not strictly necessary for this purpose because it can occur in a separate bill, and that is the way it has always been done.

If we allow this to proceed on this basis—exactly as is contemplated—we are really going to dramatically undermine the 60-vote threshold for spending, and there is spending in this bill. There is \$843 million—almost \$1 billion—and it gets worse. It gets worse because this spending has an emergency spending designation. So it is not only that we are spending money in a way that has never been done before, and it is not only that we are spending money in a trade implementing bill, which we have never done before, but now we have decided to call it emergency spending.

Why is it that it gets an emergency spending designation? Why did someone bother to give this spending an emergency designation? There is a simple reason.

Under our budget rules, if you label spending as an emergency, then you don't have to offset that spending if you exceed our agreed-upon statutory spending caps. We are at the caps, and I gather that the folks who wrote this don't want to have to offset this new spending with a reduction anywhere else in the enormous budget of our Federal Government. So they have designated it as emergency spending.

This is clearly an abuse of the use of an emergency designation. I mean, we designate emergency spending when we have to respond to a tornado or to a flood or to an outbreak of Ebola. These sorts of things are unpredictable, sudden, devastating. Those are actual emergencies. This is what that provision is there for. Yet here we are, using it for things like doubling the staffing salary budget for the U.S. trade office. That is not an emergency. It is not even close.

So I am going to offer a point of order. It is very, very simple, and it is very, very narrow. It is a very, very small thing. What I am going to do is to raise a point of order against the emergency designation of one of the spending lines in this appropriation. I could do it for all of them. I could raise an issue about the fact that there is spending in the first place, but I am not going to do that. I am going to take a very, very modest and narrow approach.

I suggest that we raise a point of order against the emergency designation—against \$50 million of the hundreds of millions of dollars altogether—that clearly is not an emergency, and that clearly, in my view, is inconsistent with the trade promotion authority.

What would be the consequences if my budget point of order were to succeed?

First of all, not a dime of spending would be reduced. This is not an attempt to cut spending. Eliminating an emergency designation does not cut any spending in this bill. What it would mean is that Congress would have until the end of the year to find an offset for this \$50 million, which, by the way, is about one one-thousandth of one penny for every dollar the Federal Government spends. It is a tiny, tiny amount of money. It means the bill will still pass because there will easily be more than 60 votes for this bill. Then it will go to the House, where it will pass because it already has passed.

The point isn't to save money per se, for it is too small to really matter in that regard. The point is, are we willing to enforce our own law that governs the proceedings of this body?

I think one of my colleagues is likely to respond by offering a point of order or a provision that will preclude the possibility of my offering this point of

order. Not only that, I think it is going to preclude the possibility of any Senator's offering any budgetary point of order, which will be a way of saying it will be forbidden to enforce compliance with the TPA's budgetary rules in this legislation.

To my colleagues, I think this is a very, very bad idea. I think to suggest that we are going to have this bill that is not compliant with the trade promotion authority and that we are going to preclude the possibility of raising a point of order about that non-compliance would be a big mistake.

I will soon have the exact language that we will be using for this purpose, and we will have this discussion. Then we will have a vote on whether or not to preclude the possibility of enforcing our budget rules with respect to this implementing legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, this is a very serious claim being made by Senator TOOMEY, and I don't take this lightly because the privilege afforded by the trade promotion authority is a very important matter.

The appropriations language that Senator TOOMEY takes issue with is, indeed, trade promotion authority-compliant. The appropriations ensure that the United States-Mexico-Canada Agreement's commitments are fulfilled and enforceable by providing adequate resources to do so. The commitments cover bipartisan priorities, including the monitoring, enforcement, and recapitalization of the North American Development Bank.

If funds were only authorized, as Senator TOOMEY has suggested, there would be no guarantee that we would be able to fulfill the commitments made in the USMCA, and the credibility of our good-faith negotiations with Mexico and Canada is the presumption that we will carry out this agreement and carry it out year after year after year. Besides, historically, all trade bills result in changes to Federal spending and revenue.

This bill has the benefit of reducing the deficit even with the funds discussed by Senator TOOMEY. Striking the emergency designations could lead to a sequestration of discretionary funding as regular appropriations for fiscal year 2020 have already been enacted. The emergency designation is, in this precise context—and in a very precise context—considered strictly necessary or appropriate under section 103 of the trade promotion authority 2015.

Here is the oddity of the Senator's argument: If Senator TOOMEY is suggesting funds be authorized, I think he inherently agrees that enforcement funding is either strictly necessary or appropriate to implement the USMCA. This is a very important clarification to make; that the trade promotion authority language is "strictly necessary or appropriate."

It is for Congress, then, to decide what is strictly necessary or appro-

priate. The Committee on Finance, with jurisdiction over the entire bill, and the Committees on the Budget and Appropriations, with jurisdiction over the language at issue, voted overwhelmingly to support the bill. It is important to note that the final appropriation was significantly reduced in consideration of concerns about spending, including my own concerns.

Finally, I emphasize this was a negotiated outcome, which was necessary in order to achieve the broad bipartisan support that this bill is going to get—particularly to get it through the House of Representatives.

I am satisfied with the final outcome, so I will make a motion to waive the point of order, if it is made, and I urge my colleagues to support waiving the point of order and to vote yes for the USMCA so we can deliver a victory to the American people.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I ask unanimous consent to speak for up to 1 minute and then for Senator TOOMEY to proceed with the procedural question.

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

Mr. WYDEN. Madam President, first, I want to make sure that we can enter into the RECORD a thanks that is deserved to the bipartisan team here in the Senate that has made this day possible.

Second, on one substantive point, because I associate myself with the remarks of Chairman GRASSLEY, I think we need to understand that what the Toomey procedural issue is all about is really that of a Trojan horse for rolling back an aggressive effort to enforce the rights that workers care about and that we all care about with respect to our land, air, and water. I know the Senator from Pennsylvania disagrees with it, but I just wanted to make that point.

The chairman is right with respect to the procedure. I just want people to understand what the substantive issue is. This is just a policy disagreement, and that is what the Senate is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I will make two quick points and then get to the point of order.

First of all, I disagree with the chairman. I do think the spending in this bill is neither strictly necessary nor appropriate, but that is not what the point of order is about. If my point of order is sustained and if the motion that is going to be made by the chairman is to be rejected, not a penny will be reduced in the spending of this bill, which is why I couldn't disagree more with my colleague from Oregon in his suggesting it is a Trojan horse for something. It doesn't cut spending by a dime from this bill. It simply means that by the end of the fiscal year, Congress will have to find an offset for this

very, very modest amount of money. It is an attempt to try to enforce some kind of compliance.

## POINT OF ORDER

Madam President, pursuant to section 314(e) of the Congressional Budget Act of 1974, I raise a point of order against the emergency designation on page No. 233, lines 4 through 8, of H.R. 5430.

Mr. GRASSLEY. Madam President, I object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, pursuant to section 904 of the Congressional Budget Act of 1974 and the waiver provisions of applicable budget resolutions, I move to waive all applicable sections of that act and applicable budget resolutions for purposes of H.R. 5430, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The Senator from Kansas.

#### AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF MARTIN F. McMAHON V. SENATOR TED CRUZ, ET AL.

Mr. MORAN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 474, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 474) to authorize representation by the Senate Legal Counsel in the case of Martin F. McMahon v. Senator TED CRUZ, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MORAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 474) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Kansas.

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

Mr. MORAN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3201, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 3201) to extend the temporary scheduling order for fentanyl-related substances, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MORAN. I ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

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

The bill (S. 3201) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

## S. 3201

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

**SECTION 1. SHORT TITLE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) any known classification of fentanyl-related substances with no, or low, abuse potential, or potential accepted medical use, as schedule I controlled substances that has resulted from the scheduling action of the

Drug Enforcement Administration that added paragraph (h)(30) to section 1308.11 of title 21, Code of Federal Regulations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the scientific and medical research community;